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THE
MEMORIAL

OF
REVERDY JOHNSON,

OF THE
CITY OF BALTIMORE,

TO THE
LEGISLATURE OF MARYLAND:

WITH AN
APPENDIX.

BALTIMORE:
PRINTED BY JOHN MURPHY,
146 MARKET STREET.

.....
1840.

THE
MEMORIAL OF REVERDY JOHNSON,
OF THE
CITY OF BALTIMORE,

RESPECTFULLY REPRESENTS:

That on or about the 3d of September, 1831, he became, at the pressing solicitation of the then president of the Bank of Maryland, one of the directors of that institution; and continued in that situation until the failure of the bank, on the 22d of March, 1834.

In the summer succeeding that event, your memorialist, for the first time, in a life of almost unexampled professional activity, involving innumerable engagements bringing him into association and conflict with almost all classes of society, and with seven years of it passed, if not with usefulness, certainly without blemish, in the legislative councils of Maryland, where he necessarily formed an immediate and intimate association with the intelligence and virtue of the state, found himself suddenly, and in the absence of the least warning that such an attack was in contemplation, publicly charged and under the imposing form of a solemn affirmation, with gross and fraudulent misconduct in his connection with the bank, and with having been mainly instrumental in reducing it to the condition which caused the widespread ruin that followed upon its bankruptcy.

It is not the purpose of this memorial to explain at large the motives for this assault upon his reputation, nor to enter upon an argumentative defence of his character. He could, if the occasion was a proper one, and hopes to have an opportunity of doing it before your session terminates, demonstrate that in the whole history of private libels no instance can be found of deeper and grosser falsehood, of blacker and more fiendish malice. Upon every opportunity which has been afforded him, he has never

failed in vindicating his integrity, and never can fail before any honest and intelligent tribunal, so long as truth and justice influence and govern human judgment. Nor is it his purpose to visit with severe animadversion the memory of the nominal author of the libel. Your memorialist has long since been persuaded that he was but a mere instrument in the hands of another, controlled by a power which he wanted the moral firmness to resist. Who that other was will appear in the sequel of this memorial. As soon after this assault upon him as it could be prepared, your memorialist published a reply which he had the gratification of knowing was esteemed by the intelligent who read and understood it a conclusive defence of his character. It was followed, however, by a reiteration of the slander, in a publication filled with the most palpable inherent inconsistencies, as well as with statements manifestly in conflict with those of the original libel. To this also your memorialist lost no time in replying, notwithstanding he was threatened by various anonymous communications that a farther vindication of himself would be attended by popular violence upon his property and person.

These menaces, however, he wholly disregarded, holding as nothing life or property in comparison with character; and his last and final reply was issued from the press in Baltimore, in the month of August, 1835. A few days after, true to these prophetic warnings, and whilst, fortunately perhaps for himself and family, they and your memorialist were in this city, where he was brought by professional duty, the popular outrages, as predicted, were brought about, which so deeply stained the city of his home, and for a time indicated the feebleness of the protection which the constitution and the laws afforded the individual citizen. It is by no means the wish or the design of your memorialist, in alluding to these scenes, to drag from the oblivion in which they are now fortunately buried, events so fatal for a time to the fair fame of a city, second to none in the general intelligence, virtue, enterprise and patriotism of her population. They have long since been lost in the glowing pride with which every citizen of Maryland and of our sister states looks back to the triumph with which the constitution of a free people, founded upon the clearest principles of

justice and liberty, finally indemnified the outraged citizen against losses, which its power, if properly exercised, would have prevented, and effectually also guarded, for the future, individual rights against the recurrence of similar calamities.

At the period referred to, there were various suits pending in Harford County Court, instituted by two of the trustees to whom the assets of the bank had been conveyed, against Thomas Ellicott, former president of the Union Bank, and his son Wm. M. Ellicott, and others, having been some time before removed to that court from the court in Baltimore, upon affidavits by the defendants that in the latter place they would be unable to procure a fair and impartial trial. The first of these cases, the one against Thomas Ellicott to recover \$25,000, received by him from the Bank of Maryland in October, 1833, for pretended services rendered its president, came on for trial in Harford Court, on or about the 27th of August, 1835, and continued almost without interruption until the 31st of the ensuing month of October. Over and over again, during the protracted controversy, did your memorialist and his colleagues, as counsel for the trustees, and with their consent, in vain urgently solicit the defendants and their counsel to consent that that and all the other cases might be remanded to the city of Baltimore for trial; where the same judges necessarily would preside, less inconvenience be sustained, less expense incurred, and where, in the then feeling of the people of that place, as manifested in the outrages to which he has referred, there could then have been no ground for supposing that the defendants would not have had justice done them, whatever reasons might have existed for the impression under which the removal of the cases had been originally procured. To your memorialist such a change of the venue would have been any thing but desirable, if he had not felt a proud consciousness of innocence of all the charges with which he had been assailed.

These cases necessarily involving an enquiry into the truth of these charges, an examination of his whole connection with the bank, and the comparative propriety of his participation and that of the defendants in the causes which led to the wretched and unparalleled bankruptcy of the institution—with a jury to be se-

lected from a population apparently just heated into phrenzy against your memorialist, with the startling and melancholy evidences of supposed popular judgment in the very vicinity of the location where the trials were proposed to be had, with a portion of the public press hurling from day to day the most burning anathemas upon his head, with the various friends and creatures of the defendants to stimulate and enforce every species of calumny against him, it would have been not mere folly but madness in your memorialist to have desired such a place for the investigation, if he had not only known the integrity of his own conduct but the entire absence of even plausible grounds for the impeachment of it. The trial of the first case, and of all the others, was, however, as already stated, had in Harford, and in the one against Thomas Ellicott especially, the affairs of the bank were most thoroughly investigated, the defence conducted by the ablest counsel, every charge which had been made then or since against your memorialist, most minutely examined and elaborately discussed, and the result was, that in a few minutes after leaving their box, the jury, as respectable as was ever convened, returned a verdict against Thomas Ellicott, for the whole amount of the plaintiff's demand, being twenty-five thousand dollars, with interest from October, 1833, the time he had improperly received it, and judgment was entered accordingly. From this judgment the defendant appealed to the Court of Appeals, where he suffered it to be affirmed without argument. Throughout this trial, so patiently conducted, so elaborately argued, and in which, above all, the defendant having, mainly, if not altogether, relied upon the ground that E. Poultney had in *his private capacity* and, with his *own funds*, paid him the twenty-five thousand dollars, under a *written* contract which gave him, Ellicott, as he alleged, a lien on certain Tennessee State bonds, and notwithstanding he was daily urged to call E. Poultney as a witness, who was constantly in court, and prove by him the asserted contract and all the charges he had made against your memorialist, and although he was solicited to call also, as a witness, Wm. M. Ellicott, his son, or Samuel Poultney, ostensible partners of Poultney, Ellicott and Company, he could not be induced to bring either of them upon

the stand. In a few days after the verdict was rendered, the jury, unsolicited and influenced alone by a sense of justice to slandered citizens, addressed a letter to your memorialist, dated the 16th of Nov. 1835, to be found in the Appendix accompanying this memorial, pp. 2 and 3, stating among other things, that they took pleasure in saying, as an act of justice to him and the gentlemen who had been implicated with him, in connexion with the affairs of the bank, that they were "entirely convinced that the imputations against his conduct and that of the gentlemen referred to, in reference to *all the subjects of charge alluded to, were entirely without foundation.*" That "the great range of evidence allowed in the case brought before *them* for their consideration every one of these topics, that they were most elaborately discussed by counsel, and that the *unanimous opinion they then gave him "was the result of a most careful and deliberate consideration of the matter."*

Although your memorialist was aware that in this opinion the whole court fully concurred, and that it met with the cordial approbation of the counsel who were associated with him in the trial, and of all the counsel of the defendant also, whose opinion he had an opportunity of ascertaining, he abstained from procuring from any of them any written avowal of the fact until, for the reasons stated in the correspondence, he deemed it his duty to procure it for the purpose of this memorial. It will be found in the Appendix, commencing on page 7.

At the same term of the court at which the trial referred to was disposed of, certain criminal cases against William M. Ellicott, the only son of T. Ellicott, and Evan Poultney and Sam^l Poultney, were also tried, and although they deeply involved the character of the parties, and in these cases T. Ellicott would have been a competent witness, and the facts recently alleged by him in a pamphlet published the past year as then within his own knowledge, and which he says it was never his "intention to disclose" in *any other way than by testimony, judicially given,** would have been vitally important to his son's defence, he ven-

* Thomas Ellicott's Pamphlet, Bank of Maryland Conspiracy, &c. page 4.

tured not, although in court every day, to take the witness stand, because he knew a cross-examination awaited him; sure to have stripped his falsehoods naked before court and jury.

None of the other civil cases against the parties in question were tried at that term—the one against Poultney, Ellicott & Co. however, was disposed of at the March term of the same court, 1836, after a most elaborate investigation, involving again nearly all the subjects of charge against your memorialist, and occupying the court and jury from the 13th day of May to the 16th day of June of that year. It terminated in a verdict for the plaintiffs for “\$34,300 without interest,” which the court afterwards, on their motion; and upon full argument, set aside and ordered a new trial. Again, although his son’s fortune as well as character, as he concedes in his pamphlet, was fatally involved, did he carefully abstain from becoming a witness in his behalf. The mere form of being called to the stand in that capacity was gone through, he supposing, no doubt, that objection would, as it might have been, be made to his competency, because of his interest as security for the debts of the house, but all objection was promptly waived, and never afterwards did he venture to shew himself. That this was the case will appear by a published and accurate report of the trial herewith submitted, as well as by the letters of Messrs. Price and Bradford,—Appendix, pp. 10, 11, and 22 to 25, as by the one from A. Constable, Esq., one of the counsel of the defendants—pp. 29 to 32.

This last letter also discloses, what the circumstances would of themselves necessarily establish, that Ellicott was exceedingly unwilling to be examined as a witness, his hypocritical declaration that it was his intention to disclose the facts asserted by him in his pamphlet, in no “*other way than by testimony judicially given*,” to the contrary notwithstanding.

At this trial, Evan Poultney was at the last moment, (and then only “by coercion” as admitted by General Maulsby, one of the defendants’ counsel—Fowler and Poultney’s Testimony, &c. p. 42,) examined by the defendants, and upon all the points upon which the character of your memorialist had been assailed, and was, of course, subjected to a strict cross-examination.

What his testimony was, how it established the truth of the charges, or how it put beyond all doubt their falsehood; your memorialist is willing to leave, for the present, to the judgment of your honorable body, to be formed upon consideration alone of the testimony itself, as extracted entire from the report referred to, and herewith exhibited.

A certain Francis M. Fowler, who has also figured largely in the slanders upon your memorialist, an adventurer from Bristol, in England, by trade a *wire-worker*, twice a bankrupt, and who doubtless, "left his country for his country's good," was upon the same occasion a witness for defendants, and his evidence, as taken from the same report, is also now presented. What have been the motives for his impotent malice towards your memorialist, if no where else to be discovered, are to be clearly seen in the character and result of the cross examination to which he subjected him. Even a cursory consideration of this evidence, whilst it proves the invaluable right, as a test of truth; and protection of innocence, of a cross examination in open court, will demonstrate also the utter and shameful falsehood of the assaults with which your memorialist has so long been persecuted. Judgments were obtained in all the other civil cases instituted by the trustees, but one, and finally, *after the books of Poultney, Ellicott & Co. got into the hands of their trustees*, and could be produced in evidence upon the new trial of their case, judgment was rendered against them for the whole amount of the plaintiff's demand, *the books establishing, beyond all question, the utter groundlessness of the defence relied upon at the first trial.* What other matters were disclosed by those books, and to what extent they likewise established the innocence of your memorialist, and *the true cause of the bank's insolvency*, he hopes to have an opportunity of presenting to your honorable body through your committee.

The Union Bank of Maryland, having obtained, whilst the proceedings before mentioned were going on, a judgment against W. M. Ellicott and Samuel Poultney, they issued an execution against their persons, which resulted in the imprisonment of W. M. Ellicott, until the court in Harford had ordered a new trial

in the case referred to, and not until then, in his applying for the benefit of the insolvent laws of the state. His discharge was opposed by that bank, and by two of the trustees of the Bank of Maryland, and with success, but finally, after the expiration of nearly two years from the date of the application and a change in the organization of the board of Insolvent Commissioners, and without inquiry, as it is believed, because the opposition was practically withdrawn, he obtained the relief he prayed for. By the provisions of these laws, notwithstanding such a discharge by the board of Commissioners, any creditor may file allegations of fraud against the applicant, in the county court of the county, upon which issues are to be framed and tried by a jury, but this can only be done within two years from the date of the applicant's *petition*, and not the date of the discharge.

These two years expired shortly after the decision of the commissioners, and all further opportunity of having the fairness of his son's conduct investigated by a jury in Baltimore was forever gone, and then, for the first time, and after, also, even all general recollection with many, certainly accurate recollection, with the public, of the disclosures and the results of the Harford trials might well be supposed lost, T. Ellicott, during the last year, for the first time, makes the disclosures to be found in the pamphlet, to which your memorialist has already adverted.

With every motive, as the foregoing history establishes, to make such disclosures before with his son's fate, in fortune and in fame, resting upon the establishment of the facts he proposes to divulge with the reputation of E. Poultney, whose character he avows himself to have held in the highest esteem, and over whose memory ostensibly he sheds sincere tears of regret, deeply involved in the establishment of the same facts with the duty which as trustee of the creditors should have impelled him to communicate to them the true causes and extent of the bank's failure and their losses with the duty which he owed to the cause of truth and justice, and to the reasonable desire of an anxious and sorely injured community, to know the actual authors of their wrongs, all pressing upon him to disclose whatever knowledge he possessed, he awaits the termination of all the judicial controversies, sees

his son placed beyond the reach of further judicial investigation, sees the assets of the bank, as he alleges, most improperly administered, the interests of the creditors most shamefully sacrificed, truth and right trampled upon, removes himself from the reach of the justice of Maryland, becomes a fugitive from the justice of its courts in which he was a judgment debtor for \$25,000 to the bank of which he had before been president, delays his exposition until the public might well be supposed to have forgotten the triumphant defence with which your memorialist had met the slanders against him, the evidence of his vindication tendered him by an honest and able jury, approved by a pure and enlightened court, sanctioned by elevated and able counsel, concurred in by every by-stander of character and intelligence who had witnessed his defence, and then, for the first time, with an effrontery and a malice never before surpassed, issues from his hiding place a publication filled with all the original libels, and with a disgusting display of falsehood and of vengeance, which for the credit of our common nature, your memorialist would fondly hope is nowhere else to be found. It is due to himself, to his family and his friends, it is due to truth, it is due to the motives impelling the Legislature to the investigation in which they are about to engage, that your memorialist should lose no time in explaining the motives by which the individual referred to has been actuated. He proceeds to do so as briefly as possible, anticipating that he will hereafter be allowed the privilege of establishing all the circumstances which will evidence the reasons for the attack. For a long period before the failure of the Bank of Maryland and almost during the whole time of Ellicott's presidency of the Union Bank, your memorialist was the confidential counsel of that bank, and the private counsel of the president. He continued in this relation to the bank up to the period of the removal of Ellicott as its president, and has done so ever since, notwithstanding the slanders with which he has been assailed by Ellicott, and that several of the directors during his administration have ever since been in the same capacity and had abundant opportunity of knowing whether many of his charges were true. On the 28th of May, 1834, more than two months, it will be recollected, after the fail-

ure of the Bank of Maryland that event having occurred on the 22d of the preceding March your memorialist, in conjunction with Charles Howard, Esq., of the city of Baltimore, was appointed by the then secretary of the treasury, the present chief justice of the United States, agents of the department, "to examine and report upon the accounts and condition of the Union Bank of Maryland." This appointment was accepted, and Mr. Howard and himself immediately commenced the discharge of its duties.

Up to this period, not the smallest indication had been given by Ellicott of any want of confidence in your memorialist. On the contrary, although, as he now unblushingly alleges, and with a most shameful violation of all consistency of statement, your memorialist had, on or before the period about to be referred to, substantially avowed his determination, by perjury or subornation of perjury, if either should be found necessary, to prevent the disclosure of the real nature of his connection with the Bank of Maryland, and although about the same period Mr. David M. Perine had told him that he too was resolved that his participation in the affairs of the bank should not be known, and that if disclosed by Poultney, he and your memorialist would "deny it and rest upon their characters for belief in opposition to his declarations," and substantially also avowed his resolve to commit perjury, to avoid the disclosure, and although he had, as he says he had, detected both "*in such duplicity that he had never before thought it possible that either of us could be guilty of,*"* we find him, as appears by his own letter to the then Secretary of the Treasury, dated the 8th of October, 1833, and published in his pamphlet, pp. 88, 89, when speaking of Mr. Perine and your memorialist, telling the Secretary that "YOU, AS WELL AS MYSELF, KNOW THAT THEY ARE INCAPABLE OF GIVING AN IMPROPER COLOUR TO MATTERS OF FACT." So again in an answer to a bill in Chancery filed by some of the creditors of the bank, long after his ceasing to be President of the Union Bank, and now of record in that court, he is found affirming, by way of accounting for his executing a deed of that date, that on the 5th of April, 1834, after, of

* Ellicott's Pamphlet, pp. 16, 17, 18.

course, the Bank of Maryland's failure, he acted under the professional advice of your memorialist, "*in which at that time he placed such implicit confidence as induced him to submit himself to its guidance, without much consultation of his own independent judgment.*"* So again on the 29th of May, 1834, in a letter addressed to Messrs. McMahon, Gill & Morris, and your memorialist, and to be found in his pamphlet, p. 106, where, in protesting against a contemplated report of the affairs of the bank by his co-trustees, he is seen stating, as his first reason against the propriety of the publication, that he believes "it will have the effect of exciting doubts and suspicions where none ought to exist, highly prejudicial to the interest of the creditors of the bank, *as well as numerous, honorable and correct men,*" and among other things, stating as his second reason, that he deemed "it the duty of the trustees, *under the advice and direction of the legal advisers and directors of the trust,* (your memorialist being one,) to first fully investigate and decide, and if possible amicably settle before any ex-parte statement is sent out to the world, which is calculated in *his* opinion to give ground for *suspensions* where no facts may be found to sustain them." So again, as the archives of the Union Bank will establish, about the same period, manifesting the most entire confidence in your memorialist, he requested him, as counsel of the Union Bank, to visit Philadelphia, to recover the proceeds of two drafts, amounting to \$40,000, before then deposited for collection by that bank with the Girard Bank of Philadelphia, and retained by the latter under a notice of claim from the then President of the Union Bank of Tennessee—a duty which your memorialist successfully performed, and paid over the whole sum to the bank. The letter of Mr. McMahon, Appendix, p. 20, will also show that this confidence in your memorialist, and he writes with the best means of knowledge, was continued by Ellicott long after the bankruptcy of the Bank of Maryland, and until about the time he was discharged from the presidency of the Union Bank.

Your memorialist has before him a statement of Mr. J.

* See case in Chancery of A. Ruff, et al, vs. Ellicott, et al, decreed in that court, 23d of May, 1836. 4 Gill and Johns. 448.

Q. Hughlett, of Baltimore, then and ever since a director of the Union Bank, and a gentleman of unquestioned character and intelligence, reduced to writing recently after the facts occurred, which equally proves that Ellicott's confidence in Mr. Perine was not diminished. The statement is, that on the 14th July, 1834, at the last meeting of the directors of the Union Bank, prior to the change of its administration (the dismissal of Ellicott as president) in answer to some remarks of Mr. Perine, who was one of the board, expressive of his regret, if during their association he had said any thing calculated to wound the feelings of either of the board, or had lost their friendship, Ellicott remarked "that if David Perine alluded to him as being the person whose friendship he had lost, he, Mr. E., *could assure him such was not the case. That he, Mr. E., entertained for him the same degree of FRIENDSHIP and CONFIDENCE that had always existed between them.*" And finally upon this subject, your memorialist, should it become necessary, will prove by the then, and now the cashier of the Union Bank, Mr. Robert Mickle, by every living member of the old board, by Mr. Charles Howard who acted with him in the investigation under the commission from the secretary of the treasury, by the chief clerk of the Treasury Department, Mr. McClintock Young, and by the secretary himself, the present chief justice of the United States, that in all his professions and acts relating to this memorialist, and upon all occasions up to the period of that investigation in June, 1834, *near three months after the failure of the Bank of Maryland*, Ellicott evinced and expressed the highest opinion of the private character and incorruptible professional integrity of your memorialist.

Nor up to this time had Evan Poultney ever breathed a doubt of the propriety of your memorialist's conduct in his connexion with the Bank of Maryland. On the contrary, so late as the 8th of May preceding, he had voluntarily executed in favor of your memorialist, and J. Glenn, Esq. a conveyance of his private estate, the more effectually to indemnify them for their responsibilities for him and the Bank of Maryland, having before on the 22d of March, the day prior to the announcement of the bank's failure, executed a similar deed for the same purpose, *under the written*

advice of *T. Ellicott*, given on that day, and published in his pamphlet, p. 94, recommending, among other things, the closing of the bank the following day, and "Evan Poultney to make a deed of trust of his private estate to secure *R. Johnson, John Glenn, D. M. Perine, Hugh McElderry and Evan T. Ellicott*, against all loss on account of their liabilities for him, or for the *Bank of Maryland*, inclusive of the orphans' court deposits."

In the prosecution of the examination, however, with Mr. Howard, into the affairs of the Union Bank, they were informed by a report of a committee of the board, that the bank had made a loan of \$450,000, upon six thousand shares of its own stock, and that they held "the stock at par, as security for the debt which appeared upon its books in the shape of a loan upon the stock of the bank." Being instructed by the secretary to satisfy themselves by personal examination of the extent of the loans of the institution, and the character and possession of the securities upon which they were made, Mr. Howard and your memorialist addressed a letter to L. Tiernan, Esq. the chairman of the committee, dated the 7th of June, in reference to the loan alluded to, of which the following is an extract: "As it is obviously proper, and will no doubt be agreeable to the bank that all the facts reported by us to the Treasury Department shall have been *examined into by ourselves*, we request to have exhibited to us the transfer book, and such others as show the stock held by the bank as security *to be actually in its possession*." On the 10th of the same month, after repeating the request, the examination was made, and then it was discovered by them, that some time in February or March preceding, just the period required by the charter to give the privilege of voting stock by the holder, and *on the eve of the failure of the Bank of Maryland*, the whole six thousand shares had been most manifestly, and to the great danger of the bank, *fraudulently transferred into a multitude of names, collected for the most part from the surrounding manufactories*, under powers of attorney, given to secure the loan by those in whose names the stock had antecedently stood, amongst whom was your memorialist, who at the time held one thousand of the shares, as is proved by the books of that bank, as well as by those of the Bank of Maryland, exclusively for the use of the latter institution.

The design of these transfers was most obvious. An election for directors was under the charter, to take place in July of that year. Already had public dissatisfaction been most strongly manifested, in relation to Ellicott's administration of the bank. The parties concerned in this shamefully fraudulent evasion of the charter, no doubt, *then anticipated as inevitable the failure of the Bank of Maryland*, and the certain increase of alarm with the stockholders of the Union Bank. They were all of them, as appears by the books of that bank, immensely indebted to it, a change of its administration and the dismissal of Ellicott as president, they knew, would, in all human probability, *be certain destruction to them*, and they resolved, even *by the perpetration of a gross and palpable fraud upon the stockholders*, and to the imminent hazard of their interests, to secure to him the government of the institution by the division of the shares referred to, so as to give them, if suffered to be voted, a commanding and certain influence in the approaching election. To make their contrivance efficacious—past all doubt—at the same time of transferring the stock into the mass of names which was to increase their voting privilege, they took from those persons powers of attorney in favor of Wm. M. Ellicott, authorising him to re-transfer it, as their attorney, to the bank, and, as their proxy, to vote it at the coming election of directors.

Indignant at this fraud,—resolved to have no appearance even of privity in its concoction,—determined to save the innocent stockholders from its design,—to protect their rights and to secure their interests, the moment he discovered it, your memorialist, acting throughout in conjunction with Mr. Howard, demanded of Ellicott, with severe animadversion upon the attempt, that the whole six thousand shares should be forthwith transferred directly to the bank itself. This, however, to its full extent, he was not able to accomplish, but he did compel him to make such transfer of the shares which had stood in the name of your memorialist, and of those which had been in the names of others than Poultney, Ellicott & Co. These, being two thousand, he refused to have transferred, fondly hoping that he would be able

to vote them, and by that means, as he could have done, yet secure his re-election. Your memorialist told him, however, to his teeth, that he never should be permitted to consummate the fraud, and that he would take instant legal steps to prohibit it. This, as the records of the Court of Appeals will show, was done by your memorialist, and others, and done successfully,—the fraudulent intent of the transfers not even having been denied, but admitted by a demurrer to the bill. The voting of the shares was by decree perpetually enjoined,* and the 14th or 15th of July, 1834, the election came on, and Ellicott, by an overwhelming vote, was hurled from a situation he had dishonored, and driven from an institution he would most assuredly have bankrupted. From this date, and from this cause, his efforts to wreak his vengeance upon your memorialist have been constant and untiring,—every art to which malice could resort, every falsehood that a debased and depraved nature could invent, every stratagem that a relentless vengeance could design, effectually to accomplish, if possible, the ruin of your memorialist, have from that period to this, been his exclusive employment. Knowing, as well as he knows his own existence, that your memorialist prizes his character infinitely beyond all earthly possessions,—esteeming money but as dust in the balance, when put in competition with his good name,—he has, by every species of artifice, most laboriously endeavored to assail his reputation and to bring upon him public contumely and reproach. Where the libeller is not known and your memorialist is a stranger, he feels that the effort may have been, to some extent, successful; and he therefore hails the investigation which your honorable body have ordered, as the means of enabling him, and he trusts forever, to put down all the slanders with which he has been assailed, and to strip their chief author of the covering of falsehood with which he vainly hopes to conceal his iniquity. As your memorialist has before stated, only four days after the date of Ellicott's discharge from the presidency of the Union Bank, the 18th of July, 1834, there followed a libellous attack upon him in a publication called "A Brief Exposition of Matters relating to the Bank of Maryland," osten-

* See *Campbell & Voss vs. Poultney, Ellicott & Co. et. al.*—6 Gill & Johns. 94.

sibly prepared by Evan Poultney, but carrying upon its face, with those who best know him, conclusive evidence that its real author was Thomas Ellicott. To this ensued, and in rapid succession, various similar slanders in a portion of the public press of the day, and in more solemn form, until finally within the year just passed, he issued the pamphlet so often referred to, and published in connection with it the original attack. See p. 143.

If the circumstances already disclosed by your memorialist did not most abundantly demonstrate the character of the author of all his wrongs, and his utter destitution of all claim to credit, his proceedings during the last moments of his presidency of the Union Bank, and when he knew that his days of control there were numbered, and just on the eve of expiring, would satisfy the most sceptical. They are to be found in an extract from the report of the Committee of Ways and Means of that bank, consisting of Messrs. CHARLES HOWARD, SOLOMON ETTING, JAMES CAMPBELL, ROBERT P. BROWN and WM. F. MURDOCK, made to the board the 15th of August, 1834, and in due course ratified. A copy of the entire report is now before your memorialist, it being a part of the evidence given in the case against T. Ellicott in Harford, and the extract is exhibited in the Appendix to this memorial, pp. 41, 42, 43, 44, 45. The reader of the disclosures contained in that paper will need no other facts to satisfy him of the disgusting nature of the man, who for a period now of more than four years, has been incessantly making your memorialist the constant object of his vindictive malice.

Your memorialist, in conclusion, feels, that he might proudly repose upon a life spotless, until assailed from such a quarter—upon the confidence and regard of the Judges and the Bar, not only in this State, but beyond her limits, who have known him almost from manhood to the present hour—to the equally constant and sustaining esteem of the innumerable friends in every other class of society which he continues to enjoy—to the intimate knowledge of his character possessed by very many of your honorable body itself, and to his triumphant vindication in every tribunal, before whom his conduct has been investigated, without the necessity of a further justification. Your honorable body,

however, are no doubt aware, that during the last political canvass in the city of Baltimore, the concerns of the bank were by a certain portion of that constituency made the subject of animadversion, and a desire indicated for a further and legislative investigation of the causes of its failure. The candidates for popular favor on either side were understood to have pledged themselves to obtain, if they could, such an examination, and doubtless, the step which you have already taken towards it, was the result of that determination.

As soon as your memorialist came to understand this supposed popular will, he felt it to be alike due to his own character, and to the wishes of a people with whom it will be his destiny, as it will be his pride during life to reside, that, so far from casting obstacles in the way, he should himself, if from any cause it was not done by others, promptly solicit such an investigation.

In pursuance of this determination, the correspondence to be found in the Appendix between himself and others took place before your honorable body convened, and this memorial would at an earlier day have been presented; but for the pressure of professional engagements which he could not properly disregard; and the belief that some one of the delegates from Baltimore in your honorable body would make the required movement, which, under the circumstances of their situation, it might be considered indelicate in him to anticipate. As you will readily perceive, the inquiry is one in which your memorialist has a deep interest, and justice to him as a fellow citizen entitles him to expect that he will be permitted to be present at all the examinations of the committee, that they will be conducted in public, and that he have the privilege of examining and cross-examining all the witnesses whom it may be necessary to the cause of truth, unquestionably the sole object of their creation, to have before your committee. It is equally apparent from the character of the charges relative to the concerns of the bank, and vitally important to the purposes of justice, that no witness should be examined except orally; but most especially, that there should be no other examination of any of the parties whose criminations and recriminations have heretofore filled the public ear, and above all, that Thomas Ellicott, if

his testimony is deemed material, as it assuredly is, should in person, and in person alone, and that publicly, and under the searching scrutiny of a cross-examination, be before the committee, where he can be confronted by the citizens he has assailed, and the untruth of his charges, if they are untrue, as your memorialist in the sight of Heaven proclaims them, may be established out of his own mouth; that the ears, if there be any abused by his falsehood, may be disabused by the power of truth. It is true, as your memorialist has before stated, that Ellicott being a fugitive from her justice, dares not venture into Maryland, and that without the protection of your honorable body he might well dread to put his foot upon her soil, but your memorialist supposes it to be equally true that coming under the requisition of the Committee, he would be free from arrest in his journey here, during his sojourn here, and until his return to Pennsylvania.

If, however, any reasonable doubt should be entertained upon this question, he prays your honorable body to pass a law, as you have the unquestionable power to do, expressly exempting him, whilst in the state, from all trouble, and he also most respectfully prays, if it should not be considered as clear that the power is already vested in them, that your honorable body instruct your committee that their investigation into the affairs of the bank shall be publicly made, and that your memorialist be allowed the right of appearing before them in his own vindication, and of examining and cross-examining all the witnesses whom they may find it necessary or important to the proper discharge of their duties to summon before them, and he, as in duty bound, will pray, &c.

REVERDY JOHNSON.

Annapolis, January, 1840.

APPENDIX

TO THE

MEMORIAL OF REVERDY JOHNSON,

TO THE

Legislature of Maryland, December Session, 1839.

No. 1.

*From the Baltimore Gazette and Daily Advertiser, edited by
William Gwynn, Friday afternoon, Dec. 18, 1835.*

"We have much pleasure in publishing the following correspondence—particularly the letter of the respectable jurors, who so patiently and attentively investigated the affairs connected with the failure of the Bank of Maryland, during the long trial at Bel-Air. We have the pleasure of knowing several of them personally, and the character of them all, which is such as to give a high value to their strong, after such an investigation, may we not say, *conclusive* testimony, in regard to the imputations against our estimable fellow citizens named in the letter of the jurors."—*Editor Gazette.*

Annapolis, 12th December, 1835.

EDITOR OF THE GAZETTE:

Sir: You will oblige me by publishing the subjoined correspondence. It was not my purpose to make it public until the Reporter could prepare his report of the case in Harford county, to which it relates; but his present engagements are such, and the work itself will be so voluminous, that it may be two or three months before he can get it ready for the press. In the mean-

time, as I understand that misrepresentations are making in regard to the sentiments of the jury upon the matters to which their letter refers, I deem it alike due to them and the purpose they had in writing the letter, as well as to myself, that it should be at once presented to the public.

Very respectfully,

Your obd't serv't,

REVERDY JOHNSON.

No. 2.

Bel-Air, Harford county, Nov. 16, 1835.

TO REVERDY JOHNSON:

Sir: The undersigned, the jury lately empannelled to try the case in this county court, of the President and Directors of the Bank of Maryland, use of Ellicott, Morris and Gill, Trustees of the Bank of Maryland, against Thomas Ellicott, having heard all the evidence offered on either side, and most attentively considered it, and also the arguments of counsel, the whole occupying our time from the 27th of August to the 31st of October last, take great pleasure in stating to you, as an act of justice due to you, and the gentlemen who have been implicated with you, in connection with the affairs of the Bank of Maryland, that we are entirely convinced that the imputations against your conduct, and that of the gentlemen referred to, in reference to all the subjects of charge alluded to, were entirely without foundation. The great range of evidence allowed in the case, brought before us for our consideration every one of those topics, and they were all most elaborately discussed by counsel; and the unanimous opinion we now give you in relation to them is the result of a most careful and deliberate consideration of the matter. We beg leave also to add that we have no doubt that the day is near at hand when this will be the sentiment of every correct man in the community.

All the prejudices heretofore existing against you, we are satisfied, if not already dissipated, will soon be removed; and that the character of yourself, and that of Messrs. Glenn, Perine, E. T. Ellicott and M^rElderry, will stand altogether discharged of the

slanders by which you have all, since July, 1835, been so cruelly assailed.

We remain, with great regard, sir,

Your obedient servants,

JAMES PANNEL, *Foreman*.

HENRY WEBSTER,

WM. M. MAYNADIER,

JACOB MINNICK,

WM. B. STEPHENSON,

CLEMENT BUTLER,

GEORGE RIGDON,

JAMES RUFF,

GEORGE AMOS, JR.

WM. B. MONTGOMERY,

WILLIAM CHESNEY,

CHRISTOPHER C. ROUSE.

No. 3.

Baltimore, 26th Nov. 1835.

GENTLEMEN,

I acknowledge with sincere thanks for the kindness which induced its communication, the receipt of your letter of the 16th instant. That I should be able completely to vindicate the integrity of my character from the foul aspersions that have been cast upon it since the failure of the Bank of Maryland, before any tribunal not so lost to all sense of justice as to condemn unheard, I have never for a moment doubted. A consciousness of innocence has supported me throughout the persecutions to which I have been subjected, and induced me never for a moment to falter, in the conviction that the day was "near at hand" when the acts of the libeller would be harmless, and my reputation would stand spotless in the estimation of every individual, whose good opinion an honest man should be solicitous to obtain.

The voluntary tender of your judgment, gentlemen, is of inestimable value to me and my friends. Until you were empanelled in the case to which your letter refers, I had not the pleasure of being personally acquainted with either of you, and unless I have

been misinformed, the efforts to poison the public mind, so untiringly made for months before, had with some of you, as was the case with many other correct men amongst us, been so far successful as to produce an impression more or less prejudicial to myself and the gentlemen named in your letter. Every thing, however, which our enemies have alleged against us, was, as you have stated, most thoroughly investigated, and under their superintendence—opportunity was afforded them (and as you know, they were and over again, and most anxiously too, called upon by me to avail themselves of it,) *to appear in person upon the witness stand, and make good their charges, but the call was in vain.* The risk of a public examination it was prudent not to hazard, and it was resolutely avoided. From such a course, but one inference can be drawn. The result of the whole enquiry your letter discloses.

I trust it will, as soon as it becomes known, satisfy public opinion in relation to the gentlemen you refer to and myself, and especially that it will convince the whole community in which we reside, how deep and foul is the stain upon their otherwise proud and noble city, of having suffered, and that too in part in open day, and that day the Sabbath, the dwellings of unoffending but slandered citizens, to be razed to the ground; their property, earnings of years of unceasing labor, to be scattered to the winds, or taken away by the felon, and their wives and children cast houseless upon the world. What has been our fate may, and will, if such injuries pass unredressed, be the ordinary result of popular excitement, no matter how caused, and no man will be safe an hour. But I am satisfied that every well wisher of our city views with unmingled reprobation the scenes of August last, and entertains a deep solicitude to do all that can be done to redress the past, and to guard against like calamities for the future.

Unless this is accomplished, our laws are a dead letter, our institutions a mockery, society will resolve itself into its original elements, and each man should and must prepare himself to be the defender of his own rights and the avenger of his own wrongs. I have however, gentlemen, no melancholy forebodings of such a state of things. On the contrary, I feel assured that such out-

rages as we have recently witnessed will never again occur amongst us. I am satisfied that the law is, and will be triumphant, and that the rights of the citizen, in person and in property, are now as secure in Baltimore as in any other city in the world.

I have of course shown your letter to Messrs. Perine, Glenn, McEldery and E. T. Ellicott, and I need hardly say that they cordially unite with me in the thanks with which its receipt is acknowledged.

I have the honor to be

Your obedient servant,

REVERDY JOHNSON.

To JAMES PANNELL, Esq. and his brother jurors.

No. 4.

Annapolis, 18th December, 1839.

MY DEAR SIR:

I mentioned to you yesterday, that it was my purpose to ask the Legislature to institute an enquiry into my conduct relative to the Bank of Maryland. With those who remember the circumstances developed in the trial of the cases in Harford County Court, which grew out of the failure of the bank, and the result of these trials, especially the one against Thomas Ellicott, any other enquiry into the causes of the bank's insolvency will, of course, be considered wholly uncalled for. But the events of those trials are now, in a great measure, forgotten, and the foul slanders with which I was previously assailed have, in consequence of it, been again revived—and, if possible, with increased malignancy. I feel that I owe it to myself, my family, and friends to make another effort to expose the utter falsehood of the charges, and to vindicate my character; infinitely dearer to me than life itself. During all these persecutions, it is true, I have been enabled proudly to defy the libeller, and to retain, even, indeed, to enhance, the good opinion of my friends. No one knows this better than yourself, and the judges who were associated with you, in sitting in judgment in the cases alluded to, and that at every step of their progress my integrity and innocence of all misconduct, was fully and conclusively demon-

strated. This opinion, however freely expressed in your intercourse in society, I have always, until now, deferred asking you to state in writing. I feel, however, that as all probability is at this day at an end, that the propriety of my conduct in relation to the bank can ever be brought again judicially before you, I am at liberty, and with perfect delicacy, to solicit now at your hands an expression of that opinion, to be used in the presentation of the memorial I have in contemplation. It is impossible for me to be assured in advance, whether the investigation I shall ask will be ordered, and I therefore desire to do all I can accomplish without it, to spread upon the journals of the Legislature of my native state all the proof I can obtain of the integrity of my conduct. You will remember, no doubt, that the jury who gave the verdict in the case against T. Ellicott, in favor of the plaintiffs, unanimously tendered me a letter wholly exculpating me and the gentlemen who have been slandered with me, from all blame in relation to the bank, and in as strong terms as they could adopt. The members of this jury have been, I am sure, long known to you, being, for the most part, your friends and neighbors, and each of them citizens of the same county of which you are a native. I beg you, therefore, to say in reply:—First, Whether you did not preside at the cases in Harford to which I refer, and if in one of them, particularly the one against T. Ellicott, the whole management of the bank, and my participation in it, was not most laboriously and patiently examined into by court and jury, with the assistance of most able counsel on the part of the defendant; and if at the conclusion, and at every step of its progress, you had the smallest doubt of the honesty of my conduct, or of the cruel injustice to which I had been subjected?

Secondly, Whether you were not acquainted with the jury who tried that cause, and if in intelligence and character you ever knew a better jury empannelled in that court?

I feel, my dear sir, that you may be under the impression that I am unnecessarily sensitive, after the triumphant vindication I have already had of my reputation, concerning the late resurrection of the slanders. I certainly should be, if I was known to every one as well as I am to you, and to your brother judges, my

brethren of the bar, or the other numerous friends who have, throughout my persecutions, so constantly and ardently sustained me. But to many honest men in this state and in our sister states, I am, in a great degree, unknown—indeed, may be known only by the slanders, which have been with such unequalled industry circulated against me, far and wide. An honest name is all I expect to leave my children when I am no more, and is by them and by myself, esteemed immeasurably more valuable than any other legacy I could possibly bequeath them. Receiving no other inheritance from my own father, and from infancy taught by him its inestimable worth, I am resolved to leave nothing undone to enable me to transmit it unimpaired to my own descendants. Your answer, in the course of this week, will greatly oblige me,

Your friend and obedient servant,

REVERDY JOHNSON.

Judge ARCHER, Annapolis.

No. 5.

Annapolis, Dec. 19th, 1839.

DEAR SIR:

I presided in all the trials referred to by you in Harford County Court, in these, and more particularly in the case of the Trustees of the Bank against Ellicott, evidence was adduced and witnesses fully examined, by able counsel on each side, in relation to the management of the Bank of Maryland and your participation in it. The investigation was laborious and patient. The jury were intelligent and highly respectable. The foreman of the jury is now, and was before that period, Chief Judge of the Orphans' Court of that county, a man of high character and standing, and from his business habits and the character of his mind, as well qualified to form a correct judgment upon the facts as any man in the state or elsewhere.

I was aware the jury had tendered to you the expression of their opinion in reference to your participation in the concerns of the Bank of Maryland: in that opinion I fully coincide, and in conclusion would observe, that no part of the evidence adduced or the circumstances disclosed at these trials, or any of them,

induced me to entertain a doubt of your honesty, fair character or integrity.

I am truly, &c.

STEVENSON ARCHER.

R. JOHNSON, Esq.

No. 6.

Baltimore, 1st January, 1840.

MY DEAR SIR:

It being now almost impossible that my conduct in relation to the concerns of the Bank of Maryland, can ever be again judicially before you, I feel myself at liberty to ask you, whether, in the examination in Harford County Court before yourself and your brother judges, in the case of the Bank *vs.* T. Ellicott, the entire management of the institution whilst I was a director, and subsequent to its failure, was not most fully investigated, and if, from first to last, you entertained the smallest question of the absolute integrity of my conduct. You will remember, no doubt, that the jury who tried the cause referred to, and who were most of them strangers to me, until they were empannelled, addressed me a letter immediately upon its termination, expressing their confidence in my character, and in the characters of the other gentlemen who had been calumniated with me, concerning their participation in the concerns of the bank, and you had most abundant means of knowing the patient diligence with which their duties in the case were discharged, and their own claims to respectability and intelligence. You also, I am proud to be assured from very long association with you whilst at the bar, and since your elevation to the bench, know how utterly incapable I am of doing an act in the least degree dishonorable, much less dishonest, and may therefore think that I am unnecessarily providing myself with the means of further vindicating my reputation. If, however, you knew, as well as I do, the deep and bitter malignity of my enemies, and the easy virtue of hired slanderers, you would not be surprised at my placing myself in the best attitude to resist their assaults, and, will, therefore, I hope,

readily excuse the trouble which a reply to this communication may cause you.

Yours, with great regard,

REVERDY JOHNSON.

His Honor Judge MAGRUDER.

N. B. A similar letter was addressed by the writer, to Judge Purviance.

No. 7.

Baltimore, 2d January, 1840.

DEAR SIR:

We have received your note under date of yesterday, and feel ourselves now fully at liberty to reply to it. Having often heretofore interchanged with each other sentiments in relation to yourself and to your conduct in the concerns of the Bank of Maryland, as well during the trial to which you refer, as since, and entertaining, as we both do now, and always did, but one opinion upon the subject, we have deemed it unnecessary to address to you separate letters, and have, therefore, adopted this mode of sending you a joint communication. During the trial of the case of the Bank of Maryland *vs.* Thomas Ellicott, the entire management of that institution, whilst you were a director, and subsequent to its failure, was most fully investigated in Harford County Court before our brother judge and ourselves, and from first to last we never entertained the smallest question of the absolute integrity of your conduct. We recollect the fact that the jury who tried the cause referred to, addressed a letter to you immediately upon, or very soon after its termination, expressing their confidence in your character. We witnessed their patient diligence in the discharge of their duties, and although we were not personally acquainted with all of them, yet we well remember having understood that they were distinguished for their respectability and intelligence—as much so, we believe, as any gentlemen in Harford county.

We cannot refuse an answer to your call for an expression of our opinion, and should do injustice to our own feelings, and as

we believe, to the cause of truth also, were we not to say, as we unhesitatingly do, that we regard you as utterly incapable of doing an act in the least degree dishonorable. We might add that we believe you incapable of even thinking of doing a dishonorable, much less a dishonest act.

With sincere respect and esteem,

We remain cordially your friends,

R. B. MAGRUDER,

J. PURVIANCE.

To REVERDY JOHNSON, Esq.

No. 8.

Hagerstown, April 11th, 1839.

MY DEAR JOHNSON:

A friend sent me by the last mail, a voluminous pamphlet entitled, "Bank of Maryland Conspiracy, as developed in the report to the creditors, by Thos. Ellicott, Trustee of said bank," in which yourself and others are villified in the coarsest terms, and I write thus early, to advise you to let it pass without any sort of notice. I have read it carefully through, and find it a heavy, pointless, and most malevolent production, containing statements and assumptions which no intelligent man will or can believe.

The charges of this man and his coadjutors against you and others, were all tried in court, before juries of their own selection; the investigations continued without intermission for three months, and were conducted by able and experienced counsel; nothing was omitted on either side which talent and diligence could supply; the result was, a series of verdicts against them, amounting in the aggregate to half a million, while the most they could prevail upon any jury to say in their behalf was, that they were not altogether qualified for the penitentiary; and even this verdict, as I thought at the time, and still think, was a little more distinguished for its charity than its justice.

One of the oddest conceits in this book is the following sentence on page 4: "It was never my intention," says the writer, "to disclose in any other way than by testimony judicially given, many

of the facts which will be exhibited in this report." Now, Mr. Ellicott was present at all the Harford trials—was a competent witness in every case except the one suit against himself. He heard your speech in which you scourged him naked for three whole days, until even his adversaries were moved to compassionate him; what he now states, if true, he knew then; and he knew also that testimony such as he now proffers to the public, would be all important to his own son, then arraigned for felony; *he heard his own counsel, Mr. Nelson, state to the jury that the charges made against you and the other gentlemen implicated with you, were without any foundation*; and yet, with all these powerful inducements to a full disclosure of his knowledge, if he had any knowledge which he might dare to disclose, *he thought it best not to be a witness*. You could not call him on the stand, and make him your witness, because you intended to impeach his statements. Your object was to cross-examine him, and out of his own mouth to discredit his testimony. This he well knew, and the trials were suffered to proceed, and his friends to take their chances, without one good word from him. And now, at this late day, he comes out with a book, the publication of which he would fain justify upon the ground that he had no opportunity of disclosing his facts "judicially."

I saw him hanging and moping about the court house during the progress of these trials, like a troubled ghost on the wrong side of Styx. I saw his head bowed down, lower and lower, as the multiplied villanies of himself and his son, were day by day brought to light. And I thought if any man had gotten enough of the Bank of Maryland it was Thos. Ellicott. He is one of those singular beings who love controversy even when they have the worst of it, but in the position in which things now are, it would be a positive disparagement of the character and standing which you hold in the community, and of which any man in the nation might be proud, to essay one word of defence against calumnies coming from such a source. I hope you will not think of it.

Your friend, sincerely,

WILLIAM PRICE.

No. 9.

*Annapolis, 16th December, 1839.***MY DEAR SIR:**

The slanders heaped upon my name, recently after the failure of the Bank of Maryland, were revived during the present year, and, if possible, with increased venom. Besides the unblushing calumnies of a portion of the press of the state, Thomas Ellicott published a pamphlet, which doubtless you have seen, charging me with every species of misconduct, and mainly upon the authority of himself alone, in relation to the bank, both before and after its bankruptcy. Delaying his attack until the lapse of years after that event, and after the trial of the suit against himself in Harford County Court, instituted by his co-trustees, Messrs. Morris and Gill, when all the transactions of the bank were disclosed and passed upon by the jury, after a laborious examination of many weeks, had been forgotten, he anticipated, and perhaps with the unthinking, to some extent anticipated right, that his publication might gratify his motive. With those who are aware that in the trial referred to, my conduct was triumphantly vindicated, not only in the opinion of the jury, but of the court and bar, who witnessed the investigation, and especially with those who know that all his assumed disclosures, if true, he knew then, and knew them to be all important to the protection of his own son, charged criminally and civilly with frauds upon the bank, and trembling for the result of each, and finally convicted in the civil case, and that he dared not take the witness stand, and state the contents of his pamphlet;—such a publication, from such a source, rotten by his own shewing, to the core, can do me no possible prejudice. So long a time, however, has elapsed, that these things, if even known to all, may have escaped the recollection of many. It is my purpose to obtain, if I can, at the coming session of our Legislature, another investigation of my conduct in relation to the bank, and I desire to accompany my petition with all the proof in the first instance I can obtain, to show how utterly unfounded are the charges against me, and especially so, as I have no assurance in

advance, that the Legislature will esteem it a matter within the sphere of their functions. May I hope, therefore, that you will oblige me by giving me, at your first leisure, an answer to the following enquiries, and directing it to me at this place:

First. Were you not counsel with me in the trial of the case in Harford County Court, of the Bank of Maryland, use of Messrs. Morris and Gill, against Thomas Ellicott?

Second. Whether in that trial the entire management of the bank from the period E. Poultney became its President, to the time of its failure, and every particular of my connection with its concerns, was not most laboriously examined into by the counsel on both sides, and passed upon by the jury?

Third. Whether throughout, I did not earnestly solicit, at all times when any objection was made to the scope of the enquiry, that it might be as unlimited as was supposed by any one to be material to a full and complete investigation of the whole of my conduct, during my association with the bank and its management, either direct or indirect? and

Fourth and lastly. Whether, at any period during that investigation, or since, you entertained the smallest doubt of the entire integrity of my conduct, and on the contrary did not end your duties in the case, with the fullest conviction that my ruin had been attempted by every species of artifice, regardless of all the restraints of moral honesty, which malice could resort to, and especially whether you were not satisfied that T. Ellicott himself, who now is reviving the fiendish effort, was not the master spirit of the conspiracy?

Sincerely, your friend,

REVERDY JOHNSON.

F. S. KEY, Esq. Washington.

No. 10.

DEAR SIR:

Washington, December 19, 1839.

I received your letter last night with some surprise, for I did not suppose, after the result of the trials in Harford, that you would be again annoyed about the Bank of Maryland.

To the enquiries you make of me, I can readily answer:

To the 1st—That I was employed as one of the counsel with you by Messrs. Morris and Gill, two of the Trustees of the Bank of Maryland, against Thomas Ellicott.

2dly—That in that trial the history of the bank, from its origin to its end, was fully developed, and particularly all its transactions with which you were in any manner concerned or connected, were fully examined, and the charges which E. Poultney's publications had made against you were fully investigated before the jury.

3dly—That you did, throughout the whole trial, invite and promote the most unlimited range of enquiry into your whole conduct during your connexion with the bank, and,

4thly—That that investigation resulted in a most perfect vindication of your conduct from all the charges and insinuations made against you, and left me without doubt as to your integrity and the falsehood and malice of your accusers. Such has been my conviction ever since, and is now. I left the court after making my own argument to the jury, having been detained with great inconvenience much longer than I expected, and consequently was not there when the argument was closed and the verdict rendered. But after the evidence was all taken, there seemed to me to be but one opinion, among those who heard it, as to its effect upon you—that it left no imputation upon your integrity. I am sure that I did not hear then, nor since, a contrary opinion from any one.

The charges against you had been made in publications of E. Poultney; but from some circumstances occurring during the trial, and others stated to me at the time, I then believed, and still believe, that the chief author of those charges was Thomas Ellicott.

I am yours, truly and respectfully,

F. S. KEY.

No. 11.

Annapolis, 19th December, 1839.

DEAR McMAHON:

I mentioned to you some months since, my determination to apply to the Legislature at its approaching session, to investigate the causes of the failure of the Bank of Maryland, and especially to enquire into my conduct during my connection with that institution. The reasons for this course you are aware are the continuing slanders with which I have been assailed, not only during the year 1835, but in the present year. Every vile epithet which the language affords has been recently heaped upon my name, by hired libellers, by the parties to the frauds upon the bank, or by the abandoned demagogue, who, knowing no moral restraint, willingly tramples upon private character, in the prosecution of his selfish ends. I know, and I am rejoiced to know, that all the good and the virtuous of the political party in our state with whom, as they know, I stand honestly in opposition, did as indignantly reprobate the course pursued by a portion of the press towards me, as the warmest friend I have: Nor could it have been otherwise. The conflicts of party, in times of high excitement, are always to be lamented, but they would become intolerable, absolutely degrading, if individual slanders were made the weapons of the warfare. The high minded and honorable, on either side, will therefore always be found united in sternly discountenancing unmerited assaults upon private reputation. As it is possible the Legislature may deem my application irrelevant to their duties, I desire to accompany it with all the evidence I can, without their aid obtain, of the perfect integrity of my whole course in connection with the bank, that it may remain permanently recorded in the archives of my native state in vindication of my honor, should it so happen that hereafter, when the circumstances may be supposed to have been forgotten, some vile libeller may seek to revive the foul slanders which I have had to encounter.

It is in your power to assist me in accomplishing my purpose. Associated with me for many years in the Legislature of our

state, and at the bar, and ever living upon the closest terms of private friendship, you have had the fullest opportunities of estimating my character, and will, I know, cheerfully bear witness that I would infinitely prefer death to dishonor, and that an act of fraud no consideration under heaven could induce me to commit. Your employment too with me as counsel of the Trustees of the Bank of Maryland, immediately after its insolvency, under the appointment of Judges Dorsey and Archer, acting in virtue of the power vested in them for that purpose, by the deed of trust of the directors, and the necessary investigation which, as counsel, you were compelled to make into the situation of the bank, and the causes leading to its bankruptcy—your intimate acquaintance with my course in relation to the trust and all the controversies connected with it—with the history of the several trials and the disclosures of every kind growing out of them, give you the power to speak with an influence, which, to an honest heart, must be irresistible. I beg you, therefore, to say in reply,

First—Whether you have seen at any moment, or upon any occasion, the slightest ground even for suspecting that my integrity had failed me in any particular, during my connection with the bank, either before or since its insolvency?

Second—Whether in the trials at Harford I did not evince the most ardent desire that the examination into the concerns of the bank, and my share in them particularly, should be as unlimited as the court could be induced to allow, and whether, in truth, every matter calculated to elucidate the causes of the bank's failure, whether furnished by its books of accounts, or parol evidence, was not disclosed?

Third—If you have read the pamphlet published this year by Thomas Ellicott, whether the facts stated by him, implicating my character, particularly those alleged to have been known to himself alone, would not have been vitally material to the defence of his only son, as well in the criminal, as the civil proceedings under which he was tried?

Fourth—Whether from the period when you became one of the counsel and advisers of the trust, as before stated, up to the time

when the late Even Poultney made his first publication against myself, and others, you were not often in consultation with T. Ellicott concerning the affairs of the bank, and if you ever heard him during that period express the slightest doubt of my integrity; but on the contrary, if he did not, to all appearance, repose implicit confidence in me, not only as one of the counsel of the trust, but as the counsel of the Union Bank of Maryland, of which he was then the president? And, finally—Whether he was not desirous that you and I should decide between the Union Bank and his co-trustees of the Bank of Maryland, the proper mode of settling the accounts of the two banks, and I did not positively refuse to participate in any way in such settlement, as an adviser of the trust or otherwise, because I might have an interest in the result of such settlement?

If you can give me your answer in the course of to-day, or to-morrow, you will much oblige me. The trouble it may give you I am sure you will readily excuse my imposing, because of the circumstances to which I allude in the commencement of this letter.

Sincerely, your friend,

REVERDY JOHNSON.

J. V. L. McMAHON, Esq.

No. 12.

Baltimore, Dec. 22d, 1839.

DEAR SIR:

I have the pleasure of acknowledging the receipt of yours of the 19th instant.

The wanton assaults which have been made upon your character entitle you to the statement of any facts within my knowledge, which may tend in any degree to the vindication of your honor; and under any circumstances, such facts would be freely communicated as an act of duty on my part. But believing, as I always have believed, that in your unfortunate connection with the Bank of Maryland, there never was the slightest foundation for any charge affecting your integrity, and having witnessed during the continuance of a long and intimate acquaint-

tance with you, your strict adherence to truth and honor under all circumstances,—I do not, in complying with your request, merely perform a cold act of duty, but render the ready tribute of the heart. However circumstances may have in some degree estranged us, I trust I shall never fail to do justice to your character and your talents.

To your first inquiry I answer, (as I have already stated,) that I never saw at any time, or on any occasion, the slightest foundation for any charge affecting your integrity, in any of your transactions in connection with the Bank of Maryland or its affairs, either before or after its failure. And I may add, that having from the moment of my appointment as one of the advisers of the trust created by said bank, the fullest opportunities of observing closely all your conduct in relation to the affairs of the bank, after that period, instead of witnessing in it at any period, any thing indicating that there was dishonor in the past, or that you desired by means of your power as adviser or otherwise, to screen or shut out from public view any part of the transactions of the bank, or of yourself, or any individual connected with it, I saw in your every act nothing but the most ardent desire to drag to light every fact connected with the transactions of that institution, and the determination to vindicate your honor from the moment it was assailed, only by the most open exposure of your whole conduct.

To your second inquiry, I answer, that in all the trials at Harford, and in all our preliminary examinations and conferences, you did manifest the most ardent desire that every fact touching the administration of the bank, or the causes of its failure, or the conduct of any of the parties connected with it, should be brought to light; and that you again and again, both in court and out of court, expressed the most earnest wish that the widest scope should be given to the examination, in the progress of the trials. It is proper also to state, that the various suits instituted by the Trustees, and removed to Harford, to wit: the cases against Thomas Ellicott, Evan Poultny, Poultny, Ellicott & Co. and Philip Poultny, had all been removed to that county upon the suggestion of the respective defendants, supported by affidavits

that they could not have a fair and impartial trial in this city; and that they were there pending for trial, at the period when the wanton outrages upon your property, and that of others, were perpetrated by a mob; that the trial of the first of these cases was commenced in a few days after the occurrence of those outrages; that at the very commencement of this case, with your concurrence, nay, at your instance, I submitted in open court, to the counsel of the defendants, the proposition to bring back all the cases for trial to this city, where every fact touching the administration of the bank, and the conduct of all the parties connected with it, could be exhibited to the view of this community, where most interest was felt in the inquiry—where every facility could be given to the fullest examination, and where in the face of the outrages just committed, they could not have any reason to apprehend injustice to themselves; and this proposition, thus made, was by them declined. The same proposition was in like manner afterwards submitted in other cases, and again declined. It was my misfortune to be prevented, by severe indisposition, from being present at the whole of the trial of Thomas Ellicott's case, and also from taking part in the first trial of the case against Poultney, Ellicott & Co., but I know that at your desire, on every occasion when I was present, the widest range was given to the inquiry; that no objection was ever interposed by you to evidence of any kind, and that in fact you invited, nay challenged, by your words and manner, the proof of every fact which could in any degree affect you, and waived every objection to its relevancy. All the books of the bank were not only submitted out of court and before the trials, to the fullest inspection of the parties and their counsel, but also to the closest scrutiny in open court, during trials which continued for months. Not an objection to evidence was interposed, nor any piece of evidence withheld on the part of the trustees, of which I have any knowledge; and I may add, also, that repeated efforts were made by us, but without success, to procure the production, by the adverse party, of the books of Poultney, Ellicott & Co., and that I personally know you were extremely desirous that Mr. Thomas Ellicott should be examined as a witness. During a part of the trials I was, (as I have already

stated,) confined to my chamber by severe indisposition, and cannot therefore state, from personal knowledge, all that occurred during the trial; but I know that all the books and papers of the bank were submitted to the most rigid scrutiny by all parties, and their counsel, during trials which extended over months; that the whole character and course of the investigation on both sides was such as not only to justify but also to require the proof of every fact which could tend in the slightest degree to exhibit the true causes of the failure of the bank, and the relative responsibilities of any of the parties connected with it; and that it was certainly universally understood that all the proof which could be obtained, had been offered, of every fact tending to illustrate these.

To your third inquiry, I answer, that I have read the pamphlet of Mr. Thomas Ellicott, referred to by you, and that the facts there stated by him implicating your character, and particularly those alleged to have been known to himself alone, were vitally material to the defence of his son, both in the civil and criminal cases, and not only so, but that they would have been of the utmost importance in all the cases in establishing the charges which were insinuated against yourself and others. I cannot imagine any facts which would have been more material, or would have exercised a more controlling influence in the decision of the cases, if they had been proved and believed.

To your fourth inquiry, I answer, that from the moment I became an adviser of the trust, and until the publication of Evan Poultney's pamphlet, I had frequent conversations with Mr. Thos. Ellicott relative to the affairs of the bank, and that during that period I never heard him express the slightest distrust or doubt of your integrity, but on the contrary, had always reason to believe from all he said or did, that he had the most unbounded confidence in your integrity, and the utmost confidence in you as one of the counsel of the trust, although during that interval we differed with him as to the propriety of the publication of an immediate report by the trustees, and also, as to the course of proceeding on the claim against himself.

To your last inquiry, I answer, that he was desirous that you

and myself should investigate and adjust the accounts between the Union Bank and the Bank of Maryland, and that you did decline to participate in it for the reasons stated in your inquiry.

I have thus, I believe, answered fully all your inquiries; and it only remains for me to add that if there are any other facts within my knowledge which you may deem essential to your defence, it will give me pleasure to communicate them.

Yours, respectfully,

JOHN V. L. McMAHON.

No. 13.

Baltimore, 4th January, 1840.

MY DEAR SIR:

It is my purpose to obtain, if practicable, an examination by the Legislature into my conduct, during my connexion with the Bank of Maryland, about which, as you know, I have been so vilely traduced since the summer of 1834. As you were associated with me in the trial of the civil cases in Harford involving the affairs of the bank, and especially the one against Thomas Ellicott, in which its whole management, and the causes of its failure were enquired into, you will oblige me by answering as soon as you can, these questions:

First—Were you counsel with me in the cases referred to?

Second—Were not the affairs of the bank, whilst I was one of its directors, fully investigated, particularly in the case against T. Ellicott, and every charge made against me by the prior publications of the late Evan Poultney, enquired into not only with the aid of all the lights furnished by the books of the bank, those of the Union Bank of Maryland, and those of Poultney, Ellicott & Co. and Philip Poultney & Co., but with the assistance of all oral evidence the defendants thought it advisable to produce, and in the result, had you the slightest doubt of the complete integrity of my conduct, or of the great and persecuting injustice to which I had been subjected?

Third—In these trials, did I not most anxiously solicit the widest scope of examination, especially into all matters touching the charges against myself, and constantly challenge the closest

scrutiny into my conduct, as well before as subsequent to the failure of the bank?

Fourth.—If you have read the pamphlet published the past year, by T. Ellicott, will you say whether the matters he charges against me, particularly those alleged by him to have been within his exclusive knowledge, would not have been vitally important in the defence of his son as well in the criminal as the civil cases against him, and do you not recollect that in the trial of the civil case against his son, I waived all objection to his father's competency as a witness, and solicited the defendants' counsel to bring him upon the stand; and can you, therefore, imagine any reason for the failure to examine him, but a dread upon his part of being subjected to that surest of all tests for detecting falsehood in a witness, a cross-examination in open court?

Your reply, at as early a period during the next week as you can give it, directed to me at Annapolis, where I go on Monday, will oblige

Your friend,

REVERDY JOHNSON.

A. W. BRADFORD, Esq. Baltimore.

No. 14.

Baltimore, 10th January, 1840.

TO REVERDY JOHNSON, Esq.

Dear Sir: I have received your favor of the 4th instant, in which you state that it is your purpose to obtain, if practicable, an examination by the Legislature into your conduct during your connection with the Bank of Maryland, and in which you make of me certain inquiries touching the proceedings in Harford County Court, in certain suits in that court in 1835 and 6, involving the affairs of that bank, and wherein I was counsel.

I will proceed to answer these interrogatories in the order in which you propose them.

To the First—I answer that I was one of the counsel engaged with you in the trial of the case of the Bank of Maryland against Thomas Ellicott, and also in the case of the Bank of Maryland against Poultney, Ellicott & Co. and present, I believe, during the whole time of the trial of each of them.

Second—In the trial of those cases, and particularly in the case of Thomas Ellicott, a large proportion of the time employed was devoted to an investigation of your connection with the Bank of Maryland; indeed the truth or falsehood of the publication then lately made by the late president of that bank, in which yourself and others were implicated as partners in that institution, seemed to be the issue to which most of the testimony was directed.

This course was permitted by the court, with the consent of counsel, with the view, as they, I think, declared, of satisfying as far as possible the anxiety in the public mind, at that time highly excited in relation to the bank's failure and the causes which led to it. As soon as such permission was given, every circumstance that could by possibility throw light upon that transaction, or could tend to the proof or refutation of the charges contained in the publication above mentioned, seemed to be pressed into the cause by the respective parties. The pamphlet itself lay constantly upon the trial table, and by far the greater number of the witnesses produced, were examined chiefly in relation to its contents. The trial occupied upwards of two months, during which time, if my memory serves me, upwards of one hundred witnesses were summoned, and the most of them examined; the books of the Bank of Maryland, of the Union Bank of Maryland, of Evan Poultney, (banker,) and of Poultney, Ellicott & Co., were produced in evidence, and open, during the whole of the trial to the inspection of either party, and if any thing was omitted, calculated to expose the true history of the bank's failure, it could only have been, as I feel assured, because it was not known nor suspected by the parties or their counsel, or because it was not deemed by them advisable to produce it. The result of this examination, so far as your conduct or connection with the Bank of Maryland was concerned, convinced me as I believe it did nine-tenths of all unprejudiced hearers, that there was nothing in that conduct or connection calculated to cast the slightest suspicion upon either your honesty or your honor.

This opinion I have frequently heretofore expressed, and can have no hesitation in here repeating it.

Third—During the trial of both the civil suits above mentioned,

you repeatedly invited the strictest scrutiny into all your dealings or transactions with the Bank of Maryland or its officers, at all times. You constantly avowed your readiness to waive all legal objections to the admissibility of any evidence the defendants might think proper to produce, and did waive them, I believe, in all instances where any such objections suggested themselves. In the suit against Thomas Ellicott, which was the first of any of the cases tried, you might easily have prevented the introduction of any of the matters treated of in the pamphlet referred to, they were all wholly foreign to the issue there joined. The suit was instituted in the name of the bank for the use of the trustees, to recover from the defendant the sum of \$25,000, alleged to have been paid to him by the late president of that bank without consideration; the case therefore was in strictness confined to the very simple inquiry of whether this money was paid to him, and paid without any services rendered for it; and yet, as I have already stated, the greater part of the testimony ranged entirely without the scope of this inquiry, to which course, as calculated fully to develop the character of your transactions with the bank, you not merely assented, but seemed earnestly and anxiously to solicit.

Fourth—I have read the greater part of the pamphlet lately published by Thomas Ellicott, to which you refer in your fourth interrogatory. He there details some matters, which, if true, would certainly have been important, if produced as testimony on the trial of the suits against his son—they were *not*, however, then produced, and are, for the first time, to my knowledge, disclosed by Mr. Ellicott in his late publication. He was present during, I believe, the whole or most of the time of the trial of the cases against his son, and if he then possessed such knowledge, I think your inference is correct that he must only have withheld it because he was afraid to submit it to the scrutiny of a cross-examination. I am the more inclined to adopt this conclusion, from the recollection of the fact, that in the course of the trial of the civil suit against Poultney, Ellicott & Co., Thos. Ellicott was once called as a witness to the stand, and although you insisted that he was not competent, you yet expressly waived

all objections upon that score and seemed anxious that the defendants should examine him.

The hour of adjournment having just then arrived, his examination was deferred, and upon the opening of the court the next morning we all of course expected him as the first witness upon the stand; but from some cause, to which, of course, we were not privy, the defendants declined calling him; nor was he ever afterwards examined or called during the progress of the cause. The surprise which this course was at the time calculated to excite, would certainly have been much enhanced, had any one supposed that he was possessed of the information which he has lately published.

I believe I have answered your several questions, and should have done so without any delay, but that I have been prevented by several days absence from the city.

I am, with great respect,

Yours, truly,

A. W. BRADFORD

No. 15.

Annapolis, 28th Dec. 1839.

MY DEAR SIR:

You will oblige me by replying to the inquiries of this letter at your earliest convenience. I feel no delicacy in calling upon you, as you in the fullest manner expressed your opinion upon the floor of the House of Delegates, in the discussion of the Indemnity Bill, that my honor was not in the smallest particular implicated in the circumstances which led to the failure of the Bank of Maryland. This testimony in my behalf, should have been considered the more conclusive, and in truth absolutely decisive, when it was known that you had had, as counsel in the cases in Harford County Court, the fullest opportunity of ascertaining every particular of my conduct in relation to the institution, both before and subsequent to its bankruptcy. Notwithstanding however your testimonial—the unanimous opinion of an intelligent jury, tendered me upon all the charges with which I had been assailed, and the well understood concurrence of each of

the three judges who presided at the trials, and of every intelligent and correct man who was privy to the disclosures then made I have, as you know, been assailed again in the course of the present year, by a portion of the press of the state, and by T. Ellicott, one of the defendants in the cases alluded to, with a vindictive maliciousness, and hardened falsehood never surpassed in the history of private slanders. It is my design, if I can accomplish it, to have the Legislature to make an investigation into my conduct, and with that view, I purpose memorializing them at their coming session. It is possible, however, that they may be of the opinion that the subject, at this late period, is not a proper one for legislative inquiry, and it is therefore my wish to accompany my application with all the authentic proof I can obtain, of the perfect integrity of my whole connection with the bank. You will please therefore inform me if you were not one of the counsel in all the cases in Harford County Court arising out of the failure of the Bank of Maryland, except the one against Thomas Ellicott, and as such, if you did not fully inform yourself of all the facts that the books of the bank divulged, the oral evidence disclosed, or the parties concerned communicated; and if in the end, with these lights before you, you entertained the remotest doubt of the absolute integrity of my conduct?

You will further state, (if you have read the recent pamphlet of Thomas Ellicott,) whether the matters he alleges against me as resting alone in his own knowledge, would not have been all important to the defence of his son, as well in the criminal as in the civil suits instituted against him, and if so, why it was that Thomas Ellicott was not called as a witness, his competency to testify being clear in the criminal cases, and all objection to his testimony on that account, being, as the printed report of the civil case shews, expressly waived by me as one of the counsel of the plaintiffs?

Independent of your voluntary declaration in the House of Delegates, to which I have referred, I should have had no hesitation in addressing you this letter, because I should have felt assured, that from your intimate knowledge of my character, acquired during our association as members of the senate of Maryland, and from the many years we have been professionally

brought together in the courts of the state, you must have known that I would have abhorred the perpetration of fraud, and shrunk with horror from the smallest dishonor. Let me have your answer as soon as possible.

Your obedient servant,

REVERDY JOHNSON.

JOHN NELSON, Esq.

No. 16.

Baltimore, Dec. 28th, 1839.

MY DEAR SIR:

I avail myself of the earliest moment, in reply to your note of this morning; to say, that as one of the counsel engaged in the trial of the Bank of Maryland cases in Harford County Court, I investigated as thoroughly as I was capable, the circumstances connected with the operations and failure of that institution; and that nothing was disclosed in the course of that investigation calculated, in the slightest degree, to impair my confidence in your probity or honor.

This declaration I felt it to be due to the parties implicated; to make to the jury of Harford county, whilst vindicating Messrs. Poultney and Ellicott; I repeated it when resisting the passage of the Indemnity Bill, at the bar of the House of Delegates, and have since, upon all suitable occasions, reiterated and enforced it.

I have read Mr. Ellicott's pamphlet, but in the relation in which I stand to the parties involved in the controversy to which it refers, I do not think it proper that I should reply to your second inquiry.

I regret that circumstances should, in your judgment render it necessary that you should publicly recur to this subject, but I take pleasure in assuring you that in your connection with the operations of the unfortunate institution which has already produced so much excitement, I have perceived nothing to weaken those sentiments of respect and regard, which a long period of unrestrained intercourse in the senate and at the bar has inspired.

I am, with the highest consideration,

My dear sir, your obedient servant,

JOHN NELSON.

REVERDY JOHNSON, Esq.

No. 17.

Annapolis, 16th Dec. 1839.

DEAR SIR:

As you were one of the counsel for the defendants, in the civil and criminal cases tried some years since in Harford County Court, growing out of the failure of the Bank of Maryland, and took an active part in their management, you will oblige me by stating in reply, whether in those cases, especially in the one against Thomas Ellicott, the management of the bank during the period I was one of the directors, was not most fully examined into, and if at the close of the investigation, or since, you did or have entertained the least doubt of the perfect integrity of my conduct.

You have, I suppose, seen a pamphlet published in the present year, by Ellicott, in which the charges against me are revived, and if possible with increased malignity, and I will thank you to say whether the facts stated by him, as within his own knowledge peculiarly, would not have been all important, not only in the defence of the criminal prosecution against his son, but in the civil suit instituted against him by the trustees, and if so, why it was that Ellicott, who, as you will remember, was present throughout all the trials, was not examined on the son's behalf? I will thank you also to state, whether in the case against T. Ellicott, I threw any impediment in the way of the most enlarged inquiry into every part of my conduct connected with the bank, or whether I did not on the contrary, earnestly solicit the most thorough scrutiny? These are matters upon which, as you know, I have never heretofore conversed with you, but I am sure I am right in supposing that your opinion concurs with the opinion of every honest man who witnessed the proceedings referred to. I should like to have your reply as early as you can possibly give it to me, as I desire to present it, with letters from all the counsel who were engaged in the cases, except one, and the reason for that exception you will readily understand, in connection with a memorial I purpose laying before the Legislature at the commencement of its next session.

Very respectfully, your obd't serv't,

REVERDY JOHNSON.

ALBERT CONSTABLE, Esq.

No. 18.

DEAR SIR:

Rockland, 23d Dec. 1839.

Your letter of the 16th inst. did not reach me until the 21st, in consequence of not being directed to Perryville, and under the expectation of finding a copy of the pamphlet of Mr. Thomas Ellicott, referred to in your letter, but which in the removal of my library and papers to the country has been mislaid or lost, I delayed an answer until to day.

When I received a copy of this publication during last spring, I very cursorily looked over some portions of it. I did not think it necessary to read it regularly through, as I felt convinced, that after having been engaged *in court for more than three months*, in the investigation of the matters it professed to examine and discuss, and devoted considerable attention to them out of court, *with the full benefit of the views and suggestions of Mr. Ellicott*, his pamphlet would not shed any additional light on the subject. I cannot, therefore, from a want of knowledge of the contents of the pamphlet of Mr. Ellicott, express an opinion upon the subject of your inquiry as to "whether the facts stated by him, as of his own knowledge peculiarly, would not have been all important, not only in the defence of the criminal prosecution against his son, but in the civil suit instituted against him by the trustees, and if so, why he was not examined in his son's behalf?"

I can, however, say, that I was not aware of Mr. Ellicott's being an important witness in any of the cases growing out of the failure of the Bank of Maryland. The *criminal* prosecution referred to by you was virtually decided in favor of the defendants upon a demurrer to the indictment, the court, adopting the doctrine of the New York and Massachusetts cases, having held that the alleged offence of conspiracy was *merged* in the execution of the object of the conspiracy. And as to the *civil* case, I find, by reference to my notes, made during the trial, which lasted from the 13th of May to the 16th of June, that on the 24th of May, the defendants proposed to examine Mr. Thomas Ellicott as a witness on their behalf, but the plaintiffs objected, on the ground that Mr. Ellicott, by having conveyed his property in trust to secure the payment of certain liabilities of defendants, of which

plaintiff's claim was alleged to be one, was interested in the result of the controversy, and thereby rendered an incompetent witness, as his evidence, if permitted to go to the jury, would operate to relieve his own property in the ratio that it might reduce the verdict. After this question had been discussed by counsel on both sides and before an opinion was intimated by the court, the plaintiff's counsel, adopting a suggestion from the bench, waived all objection to the examination of Mr. Ellicott. The court then adjourned until the next morning, when the defendants proceeded with their case, by the examination of Mr. George Fitzhugh, jr. So that I do not find in any part of the notes taken during the trial that Mr. Ellicott was examined. Why we declined to examine him, if such was the fact, after your objection to his evidence was withdrawn, I am unable at this remote period, to state. I think it very probable, however, that we concluded to offer other evidence of the fact or facts, Mr. Ellicott was called to prove, and that we did so upon the suggestion of Mr. Ellicott, who, I know was very reluctant to testify in any of these cases, standing in the relation that he did to the parties. In making these remarks I do not wish to be understood as positively stating that Mr. Ellicott was not examined in this case, he may have testified without my noting it; but I am confident that if he had been examined and proved any fact of importance, I should have made some minute of it, as it was my habit throughout the trials to take full notes of all the evidence, which are now before me, apparently regular and perfect.

In answer to your inquiries as to "whether during the trial of the suits growing out of the failure of the Bank of Maryland, and especially in the one against Thomas Ellicott, you threw any impediment in the way of the most enlarged inquiries into every part of your conduct, connected with the bank, or did not, on the contrary, urgently solicit the most thorough scrutiny; and whether the management of the bank, during the period you were one of the directors, was not most fully examined into, and if, at the close of the investigation, or since, I did, or have entertained, the least doubt of the perfect integrity of your conduct?" I must state that in the trial of the suit by the trustees against Mr. Thomas Ellicott, the management of the Bank of Maryland and the con-

dition of its affairs, not only during the period that you were a director, but antecedently, was examined as thoroughly as either party desired. The widest imaginable range was allowed to both parties, who, I regret to say, in utter disregard of all the rules regulating the admissibility of evidence, offered testimony, both oral and documentary, of every matter and thing, whether relevant or not, relating to the affairs of the bank and the conduct of its officers, which they thought calculated to prejudice the adversary or benefit themselves *in the view of the public*. For six weeks of the time consumed by this trial, the issue made up by the pleadings and submitted to the jury, was entirely overlooked, and an investigation indulged, not only in regard to the condition of the accounts and assets of the Bank of Maryland, and the conduct of its directors, whether official or otherwise, and of every one who had any supposed connection with the bank, but as to the character of the connection, and the conduct of all its numerous branches or agencies established at New York, Wheeling, Cincinnati, Louisville, Little Rock, Elkton, Baltimore and elsewhere. And all the transactions that either party desired, of the Union Bank of Maryland, the Susquehanna Bank, the Maryland Savings Institution, the General Insurance Company and the Union Bank of the state of Tennessee, with the Bank of Maryland, its president, Mr. Evan Poultney or any of its directors, and the transactions of Poultney, Ellicott & Co. with the Union Bank of Maryland and various other matters relating to the management of that bank during the period of Mr. Thomas Ellicott's presidency, and especially the facts and conclusions of an elaborate report of a committee of the directors of that bank, made after his connection with it had terminated, were canvassed. And all the circumstances attending the execution of the deed of trust of the assets and effects of the Bank of Maryland to Mr. Thomas Ellicott, and of the private estate of Mr. Poultney to trustees, were also gone into, with a great variety of other subjects that I cannot now recall to mind. And during the examination of all these collateral issues all the testimony offered by either party, whether legally admissible or not, was heard by the jury, and as I supposed with a perfect understanding on both sides that it could

not tend to enlighten them as to the matters they were to determine, and would ultimately be excluded from their consideration by the court, but as facts and circumstances, calculated to place all the parties in a proper light before the public, in order that they might judge who was really responsible for the failure of the Bank of Maryland.

You made no attempt that I am aware of, to interpose any obstacle to this unexampled latitude of inquiry; on the contrary, it seemed to me that you were too desirous for it, while we, knowing it to be wholly unprecedented and illegal, and extremely onerous in the way of costs and expenses on the defendant, made several attempts at various stages to arrest it. In this particular I am corroborated by the remarks of the court, as written out at the time by our reporter, and now before me, on a motion of my colleague, Z. Collins Lee, Esq., to stay the interminable flood of impertinent testimony; and I might also refer to the notes that I filed with the clerk in support of a motion that I made in this case, on behalf of the defendant, that the costs of all witnesses who were examined merely as to collateral matters, not pertinent to the issue, might not be taxed.

I have, probably, gone more into detail than was necessary, in answering some parts of your inquiries, but the examination of the witnesses on behalf of defendant, in the case alluded to, having devolved almost entirely on me, and thus rendered me very familiar with the various matters investigated, I have preferred a reference to the most prominent of these, instead of the expression of an opinion relative to the character and scope of the evidence.

Your course throughout these trials, so far as it came under my observation, exhibited an extraordinary degree of confidence in the purity of your motives and conduct, and fearlessness of a successful attack upon them from any quarter, and my deliberate conviction "at the close of the investigation" was, and still is, that nothing transpired, implicating in the slightest degree, either your integrity or your honor.

I am, &c., very respectfully,

Your obedient servant,

ALBERT CONSTABLE.

REVERDY JOHNSON, Esq.

No. 19.

Annapolis, 20th Dec. 1839.

DEAR SIR:

You have witnessed during the present year, reiterated with increased bitterness, the foul charges with which I was assailed recently after the failure of the Bank of Maryland. Notwithstanding the full exculpation of all the jurors who have had to examine into the affairs of the Bank, and my connection with them, the concurrence in opinion of my integrity of the Judges who presided at the trials, and of all the counsel who were engaged on either side of the cases, as well as of every honest and intelligent man who witnessed their disclosures, I have been again most vilely traduced, and with a savage fierceness almost without example. Availing themselves of the lapse of time which has intervened since these investigations, and of the supposed forgetfulness of the result, as far as I was concerned, the parties to the original slanders, or their hired agents, have again sought to poison the public mind and to strip me of what I value more than the world's worth, my character. It is my purpose to bring the subject in some shape or other, before the Legislature during its approaching session, and to get from them if I can, another enquiry which, if possible, shall forever silence the tongues of the miscreants who are hurling again their base accusations at my head. I desire however to accompany my application with what proof I may be able to obtain of the character and termination of the examinations which have already been made, and I therefore hope to be excused for addressing you this communication.

You were one of the counsel in the case of the Bank against Thomas Ellicott, which was tried in Harford, and took an active part in his defence. You will oblige me by saying, if in that case the whole concerns of the Bank were not most thoroughly investigated, and every part of my alleged participation in all the acts charged to have led to its bankruptcy, and in those which subsequently occurred, which were supposed to have operated to the prejudice of its creditors.

Second.—Whether so far from evidencing any desire to limit the scope of the enquiry, I was not throughout, exceedingly soli-

citous to have it as full and perfect as it could be made either by the aid of the books of the bank, or otherwise, and for that purpose, if I did not waive all objections which I might have raised to the evidence introduced on the part of the defendant?

Third.—At the termination of that trial, whether you had the least doubt of the perfect integrity of the whole of my conduct during my connection with the bank, or of the foul injustice that had been done me upon the subject?

Fourth.—If you have read the pamphlet published in this year by Thomas Ellicott, the defendant in the case referred to, whether all the charges contained in it were not embraced in the trial of that case, and most triumphantly met by me. And finally, what reason could have influenced Ellicott, if the facts stated by him in that publication were true, or believed by him to be true, not to have disclosed them as a witness in the civil or criminal cases against his son W. M. Ellicott, tried in the same court, which, as you know, involved his fortune and his character. Your answer in the course of the coming week will oblige me.

Yours, with regard,

REVERDY JOHNSON.

Z. COLLINS LEE, Esq.

No. 20.

Baltimore, January 4th, 1840.

DEAR SIR:

Your letter of the 20th Decemher from Annapolis, was forwarded to me at Washington, and has only been received here within the last day or two, and I now take the earliest occasion to reply to it.

My answers are desired to the following questions:

1st. "Whether in the case of the Bank of Maryland, against Thomas Ellicott, the whole concerns of the Bank were not most thoroughly investigated, and every part of (your) my alleged participation in all the acts charged to him, and to its bankruptcy, and in those which subsequently occurred, and which were supposed to have operated to the prejudice of its creditors?"

2d. "Whether so far from evincing any desire to limit the scope of enquiry, (you) I was not throughout exceedingly solicitous to have it as full and perfect as it could be made, either by the aid of the books of the Bank of Maryland, or otherwise, and for that purpose if I (you) did not waive all objections, that might have been raised to the evidence introduced on the part of the defendant?"

3d. "At the termination of that trial whether I had the least doubt of the absolute integrity of the whole of my (your) conduct during my (your) connexion with the bank, or of the foul injustice that had been done me (you) upon the subject?"

4th. "If I had read the pamphlet published in this year, (1839) by Thomas Ellicott, the defendant in the case referred to; whether all the charges contained in it were not embraced in the trial of that case, and most triumphantly met by me; (you) and finally, what reason could have influenced Ellicott, if the facts stated by him in that publication were true, or believed by him to be true, not to have disclosed them as a witness in the civil and criminal cases against his son Wm. M. Ellicott, tried in the same court which I knew involved his fortune and character?"

I shall proceed to give my answers to the above interrogatories in the order in which you propound them.

To the 1st answer,—I was one of the counsel engaged on the part of the respective defendants, in what are called the Bank of Maryland cases, tried at Bel-Air in 1836, and was not particularly retained by Mr. Thomas Ellicott in his case, to which you refer, (though) I acted as one of his counsel.

My attendance at court during the trial of this case, and the others, both civil and criminal, was very constant, and I participated in the various stages of the proceedings and arguments at the bar, and especially in the cases against Mr. Evan Poultney.

I do not recollect taking a very active part in the case vs. Mr. Thomas Ellicott; General Jones, and Mr. Nelson, were I think, the leading and active counsel, and argued it on the merits.

At that trial, as also in the trial of the prosecutions against Mr. Evan Poultney, the President of the bank, the door was thrown open on both sides, to the fullest and most thorough investigation

into the causes of the failure of the Bank of Maryland, and the charges and allegations advanced by both parties.

Your participation in the acts charged to Mr. Thomas Ellicott's agency, and in the transaction subsequent to the failure of the bank, was examined elaborately and without limit or reserve, inasmuch, that the time occupied by the trials, and the mass of documentary and oral testimony exhibited, was unprecedented and certainly without a parallel in the annals of courts of justice in this country; I know of but one exception any where, and that was the celebrated trial of Queen Caroline in England, before the House of Lords, which occupied, I believe, six months.

The Bel-Air cases, including the case you particularly refer to, were more *fully* tried, (rules of evidence having been relaxed or abrogated for the purpose) than any others within my professional experience and knowledge.

To the second answer,—The books of the Bank of Maryland were produced at these trials, and the Cashier, (Mr. Wilson) who had the custody of them, was also examined.

The counsel of Messrs. Ellicott and Poultney had access to these books, while they continued there under the charge of Mr. Wilson.

You interposed no obstacle to their thorough perusal and examination, but seemed desirous to bring them fully before the court and jury. Indeed, objections were waived by the counsel on both sides, as to the admissibility of evidence, and the court, by consent of counsel, permitted this course of proceeding; for the purpose of promoting the investigation; and the counsel representing the defendants were most anxious to develop the utmost, either of accusation or defence, which the books of the bank might disclose, because we believed that our clients would be vindicated by them, from all the charges of fraud and speculation which they were invoked to prove.

For myself, I never for a moment supposed, that the failure of the bank had been occasioned by the embezzlement of its funds, or any spoliations committed on it by its agents or managers; and the trials referred to at their close, abundantly sustained this opinion, and accounted for its bankruptcy without imputing or fixing

upon its president or directors the slightest taint of fraud or speculation; its failure was mainly attributable, as the books and other evidence proved to my satisfaction at least, to the enlarged circulation of its paper and responsibilities, and the appropriation of its available means to the purchase of its own stock, at prices greatly beyond its real and marketable value, at a time when the greatest foresight and prudence was required to curtail and guard its operations.

I repeat, therefore, that the general wish and effort on both sides, in the trial you refer to, was to enlarge the field of enquiry, and make the investigation as searching as possible, for the reasons I have stated.

To the third answer,—I have already stated the opinion I then, and now entertain, which was, that there had been no fraud committed by the president and directors of the Bank of Maryland, nor had its funds been embezzled and applied to their individual use or benefit, but that the books showed and accounted for the dissipation of its means and deposits, without imputing any fraud or malversation in office to those charged with its control and direction.

At the termination of those trials, I had no question of the integrity of your conduct, and your vindication from the charges preferred against you, and my intercourse with you since that time, though limited and of a professional character, has convinced me that you were incapable of the dishonorable actions charged to you, and that the greatest injustice has been done you in this respect.

I deem it, however, due to justice, and you will not, I hope, consider it out of place here to add that the late President of the Bank of Maryland, Mr. Evan Poultney, was known to me from personal intercourse, as an amiable and benevolent man, possessing a sanguine and somewhat ardent temperament, and easily dazzled by the brilliant but evanescent visions of the future. My opinion formed also of him during and at the close of the trials, satisfied me that he had undertaken a task in the management of the Bank of Maryland and its agencies, far beyond his power and financial experience, but never was there less guilt and more

weakness combined, than in his short career at the head of that institution. *Fraud* and *peculation*, though charged alike against him and his associates, never to my mind were sustained by proof; on the contrary, the books of the bank—the ruined fortune of the accused, and the general body of testimony adduced then and since, have not in the remotest degree, established the truth of one single charge affecting his integrity and honesty. This opinion of Mr. Poultney, long entertained and often expressed by me, I must be pardoned now for repeating here.

Over his grave and memory, nothing that I or others may now say, either in censure or praise, can avail to him—but it is due to the occasion and to justice, that I should thus bear testimony to his character, so far as it came under my observation.

To the fourth, and last answer.—I have read the pamphlet of Thomas Ellicott, published within the past year; all or most of the matters, according to my present recollection, embraced in this pamphlet, were brought before the court at the trial of his case; and you then met and repelled the allegations and charges satisfactorily, which were brought against you at that trial, but my recollection is not distinct as to the particular import or extent of them. I am ignorant of Mr. Ellicott's reasons for not disclosing at that trial, all the facts within his knowledge, and which are now made known in his pamphlet.

The above answers, hurriedly given, are as full as my recollection will permit, and I hope, though delayed from the press of engagements, will be in time for your purpose.

I am with regard,

Yours, &c.

Z. COLLINS LEE.

R. JOHNSON, Esq.

No. 21.

Annapolis, 9th January, 1840.

DEAR SIR:

I purpose presenting to our State Legislature, at its present session, a memorial, in relation to my alleged wrongful participation in the management of the Bank of Maryland, and desire to

accompany it with the evidence I may have of the great injustice which has, for so many years, been done me, concerning that institution.

You were the Reporter I obtained to report the case of the Trustees of the Bank *vs.* T. Ellicott, tried in Harford County, in the summer and fall of 1835, and witnessed all the disclosures of the trial, and necessarily gave them the closest attention. You were an entire stranger to me personally, until a few days before the trial commenced,—as you were, I believe, to all the parties whose conduct had been impeached in relation to the affairs of the bank, and, of course, listened to the investigation with perfect freedom from prejudice or partiality; will you do me the favor then, to state, and as I am sure you will do, with entire frankness, whether from the beginning of the investigation to its end, you saw any thing which, in your opinion, justified the charges with which I had been previously assailed, or brought in question at all, my claims to integrity and honor? You also saw how truly solicitous I was throughout, that the examinations should be as full and searching as possible, and with what promptness I waived all objections to evidence of any description calculated to develop the concerns of the bank, or to criminate or defend any of the parties who had had the slightest participation in them? Your reply, and by the return mail, if possible, will greatly oblige me. Direct to me, at this place.

Yours, with respect and regard,

REVERDY JOHNSON.

JOHN AGG, Esq. Washington.

No. 22.

Everham Lodge, Washington, Jan'y 14, 1840.

DEAR SIR:

Your letter, which bears the date of the 9th instant, only reached me in the evening of yesterday. In reference to the impressions made on my mind during my attendance at the trials at Harford county, in 1835, in the case of the trustees of the Bank of Maryland *vs.* T. Ellicott and others, you propound to me the following question:

"Will you do me the favor to state whether from the beginning of that investigation to its end, you saw any thing which in your opinion justified the charges with which I had been previously assailed, or brought in question at all my claims to integrity and honor?"

Most emphatically I answer,—*certainly not*. I was an attentive listener to the evidence throughout, and had submitted it to my own judgment before it went to the jury, and I came to the conclusion that the charges against you of a "wrongful participation in the management of the Bank of Maryland," &c. had not been sustained in any one point, and that nothing had transpired in the course of the trials which involved, in the least degree, your claims to integrity and honor. The liberality and promptness with which you admitted "all "evidence of any description calculated to develop the concerns of the bank," proved that you were solicitous throughout, "that the examination should be as full and searching as possible." I have never hesitated, when an opinion was required of me, to declare my conviction that you had been causelessly, if not maliciously, slandered, and that the result of the legal investigation at Harford, to every intelligent and unprejudiced mind, would be to establish your character on a moral elevation still higher than that, high as it was, which it had previously occupied.

If I could add to the strength of these asseverations by a further expenditure of words, I would willingly say more. But as a candid and direct expression of my opinion is all you require, I hope that what I have already said is sufficiently full and satisfactory.

I am, dear sir, yours,

With respect and esteem,

JOHN AGG.

REVERDY JOHNSON, Esq.

N. B. The memorialist, more than a year since, received a letter from Mr. Moore, now deceased, and for many years one of the reporters for the Globe of Washington, of the same character and couched in the strongest terms, and expressing a similar opinion; but he has mislaid it. *Mr. M. was employed by the defendants to report the Harford cases, and was there during the entire trial of the case against T. Ellicott.*

No. 23.

"Extract of Report of Committee of Union Bank, Aug. 15, 1834.

"There is another subject of much importance, which the committee deem it to be due to themselves to bring distinctly before the notice of the board. It is with much regret that they do so, as it may appear invidious in them to cast a censure upon their predecessors in the administration of the bank. But it must be recollected, that the late change in the direction was produced by the conviction which the stockholders entertained that their interests had not been promoted by the course which the bank had pursued. And the board must be aware that many of them expected that a rise in the price of the stock, and a restoration of the bank to the confidence of the public would speedily follow a change in its government. The committee have already spoken of some of the embarrassments which will, they fear, prevent these hopes from being soon realized, and if the stockholders should institute an enquiry into the causes of the disappointment they may experience, the present board of directors must hold themselves prepared to give an account of their stewardship. For all the acts done by them, they will be prepared to answer; but the responsibility of those performed by others, they cannot be expected to assume.

The board are aware, that on the list of stock loans, the house of Poultney, Ellicott & Co. stand debtors to the amount of \$142,500. The whole of this immense loan has been placed beyond the control of the board until the month of January next, by acts of which the committee must express their disapprobation. These loans had been made, and from time to time renewed by the president and cashier under the special authority of a resolution of the board of the 18th November, 1830; which resolution was at the request of these officers repealed on the 3d July, 1834. (See minute book, page 426.)

On the 8th July, one of the notes of Poultney, Ellicott & Co. for \$75,000 became due, and appears to have been renewed for six months from that date. On the same day, two other notes of the same house, one for \$37,500, due 3—6 August, and one for

\$30,000, due 5—8 August, appear to have been taken up by the substitution for them of two notes for similar amounts, dated 8th July, 1834, at six months. When these discounts were made, there was standing upon the minutes, unrepealed, the following resolution, adopted by the board on the 19th December, 1833, viz:

“Resolved, that this board will not, hereafter, discount any paper which has a longer period to run than three months from the time of discounting the same; and that this rule remain, until rescinded by the board.” (page 332, minute book.)

The committee would infer from these transactions, that their import could not have come to the knowledge of the board, and that there was, by deliberate design, an intention to deceive the board by getting them past without observation. Room for this suspicion, the committee think is afforded by the very singular fact, that two of these notes should have been renewed nearly a month before they became due, and after the regular day of election had been postponed; and also at a time when it was almost certainly ascertained that the direction and government of the bank was about to be changed. The committee cannot but say that neither the president nor the board had any right, six days before the election of directors, thus to trammel their successors, and lock up for so long a period, any part of the funds of the bank by renewing notes which had still so long to run before maturity.

A transaction of the same character will be found alluded to in the Resolution of this Board, of the 19th July, 1834, which will be found in the Minute Book, page 442. The notes mentioned in that Resolution as being in the hands of the Discount Clerk, to renew others due in this and the next month have been returned to the parties; but the Committee understand, that these parties claim as a matter of right to have the notes renewed, on the ground that the notes returned to them were in fact agreed to be discounted in anticipation, by the late Board of Directors. This claim is denied by the Resolution above mentioned of the 19th July.

Connected with the subject of the liabilities of the house of Poultney, Ellicott & Co. is another transaction which the Committee feel constrained to notice, as by it the security held by the

bank for a loan was much diminished. On the minutes of the 17th April, 1834, page 376, is the following, viz:

"The board agreed to receive, as a substitute for the Baltimore City stock, now held as a security for Thomas Ellicott's note, for \$25,765 37, a certificate of deposit of Poultney, Ellicott & Co."

On that day the board held, among other notes discounted for the use of Thos. Ellicott, one for \$25,765 37, dated March 8th, 1834, and due the 7—10 April, 1834; as security for this note, the bank held two certificates of City five per cent. stock, for \$12,500 each. On the 17th April, agreeably to the above minute, the certificates of City Stock were delivered up to Mr. Ellicott, who placed in the hands of the Cashier, with the sanction of the Finance Committee, J. I. Cohen, Jr. & Brother's check on the Bank of Maryland, endorsed by Poultney, Ellicott & Co. for \$39,142 69, this being deemed by the Committee a sufficient security for the time; it being understood that the certificate of Poultney, Ellicott & Co. would be given in a few days, so as to agree with the minute of the board. There were several other checks of the Cohens on the Bank of Maryland, placed in the hands of the Cashier about the same time; but as he understood these other checks to be left with him merely for safe keeping, they were not entered in the Security Book.

On the 28th April (minute book, page 377) the board agreed to loan to Mr. Ellicott a further sum of \$25,000, upon ample securities, which were referred to the Finance committee. On the 29th April, by direction of Mr. Ellicott, the cashier delivered the checks of J. I. Cohen, Jr. & Brothers, to William M. Ellicott, who thereupon delivered to the cashier the two following certificates of deposit, issued by Poultney, Ellicott & Co. in favor of Evan Poultney, and according to the recollection of the cashier, by him (Evan Poultney) endorsed, viz:

No. 956, dated January 4th, 1834, for \$50,000.


" 957, " " 4th, 1834, for \$50,000.

And on the 30th April, two notes drawn by Wm. M. Ellicott, and endorsed by Thomas Ellicott, one for \$16,000, due July 2d, the other for \$9,000, due July 6th—both dated April 30th, 1834, were discounted by the Finance committee, under the minute of

the 28th April, and entered to the credit of William M. Ellicott. These notes were upon the security of one of the above described certificates of Poultney, Ellicott & Co. for \$50,000,—the other certificate for \$50,000 being held as the substitute for the city five per cent. stock.

On the 25th of June, the certificate, No. 956, for \$50,000, was withdrawn by Mr. Ellicott, without any authority appearing for the act, and 347 shares of Union Bank of Maryland stock substituted, amounting, at \$75 per share, to \$26,025, which are now held as security for Thomas Ellicott's note of \$25,765 37, originally discounted on city stock.

On the 5th of July, the certificate, No. 957, for \$50,000, was withdrawn, and a certificate of which the following is an exact copy, was substituted in its place, viz:

No. 162 Market street.	Real estate, conveyed to trustees, as collateral security.	Dated March 25, 1834. POULTNEY, ELICOTT & CO.
	\$25,000. Certificate of Deposit. No. 1053.	
	Banking House of Poultney, Ellicott & Co.	
	 <i>Baltimore, Jan. 4th, 1834.</i>	
	Evan Poultney has this day deposited in this bank, twenty-five thousand dollars, — cents, which sum with interest at the rate of six per cent. per annum, will be paid to his order twelve months after demand.	
	POULTNEY, ELICOTT & CO.	
	<i>*Tst, Wm. H. MORGAN.</i>	

The above is endorsed by Evan Poultney and Wm. M. Ellicott, and is now held as security for the two notes of Wm. M. Ellicott for \$16,000 and \$9,000. The original notes became due, and were renewed by the board as follows, viz:

July 2d, Note for \$16,000, due November 2—5.

" 5th, " " \$9,000, " " 5—8.

To the notice of the demand on the face of the certificate, the signature of Poultney, Ellicott & Co. had been omitted to be affixed until after the certificate came under the control of the present board, by whose direction the signature was obtained.

From the above statements it must be inferred that Mr. Ellicott could not be otherwise than cognizant of the transactions between Evan Poultney, and Poultney, Ellicott & Co., and that he used

the certificates of special deposit of Evan Poultney, and Poultney, Ellicott & Co. for his own private convenience in this bank, as collaterals for his discounts.

When the committee reflect upon the nature of this transaction, and connect it with the fact known to the public, that Evan Poultney, on the 4th January last, could not have been properly in circumstances to authorise him to make such a deposit as would entitle him to these certificates; when also, it is known that the demand for payment was not made until the day after the failure of the Bank of Maryland, after an assignment of all Evan Poultney's effects to trustees; when moreover, the holder at that time is unknown, and no facts appear to the committee to shew when the certificate came into the hands of Wm. M. Ellicott; when the pre-existing large liabilities of Poultney, Ellicott & Co. to this bank are considered; the lapse of time after the resolution of the 17th April, before the certificate was deposited with the Union Bank; *above all, when it is considered that this paper having eight months to run, giving the chances of failure to the payers, was substituted for a good substantial security in City Stock, capable at any moment of being converted into funds, the Committee cannot refrain from the expression of their belief that this reprehensible transaction by the President of the Bank, was accomplished by a deception on the Board; and that the circumstances belonging to it could never have come to their knowledge.* The minute of the 17th of April, does not express the character of the certificate to be deposited, but it could scarcely have contemplated a certificate in favor of such a payee, nor payable at so remote a period.

If loss should eventually arise upon this transaction, it will be a grave subject of enquiry to ascertain who are liable for the consequences of such an invasion of the rights of the stockholders."

Signed,

CHARLES HOWARD,
SOLOMON ETTING,
JAMES CAMPBELL,
ROBERT P. BROWN,
WM. F. MURDOCK,

Committee
Union Bank
of Maryland.

August 15th, 1834.

The following is the letter from Mr. Moore, the Reporter employed by the defendants in the Harford cases referred to as mislaid, in a note to the one from Mr. Agg—(*Appendix*, pp. 39 and 40.)

Washington, Saturday morning.

DEAR SIR:

I had no idea of the length of your speech until I had progressed some way, but as I am blessed with the faculty of perseverance, I will redeem my pledge. I am going to the country for a few days, where I shall be able to write without interruption, and will report progress to you on my return. I have written upwards of one hundred pages:—the whole will make between three and four hundred pages, and, *unless my judgment deceives me, the perusal of it will forever set at rest all cavilling or doubt about the complete innocence of the gentlemen implicated with yourself in the most absurd and unfounded charges ever insinuated against men, whose only fault was misplaced friendship and over confidence.* It is more and more important, as I proceed, and based, as every argument is, upon oral and documentary testimony of the highest character; every line carries conviction with it. If I find that I am unable to proceed as fast as you desire on my return, I will suspend my attendance on Congress for a week.

Respectfully,

W. ELWYN MOORE.

TO REVERDY JOHNSON, Esq.

